the weekly
Standard

NOVEMBER 13, 1995

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RUDY CLEANS IT UP

New York's Civility Crusade

by David Brooks

FRED BARNES on why Powell shouldn't run

CHARLES McCARRY on James Baker's memoirs

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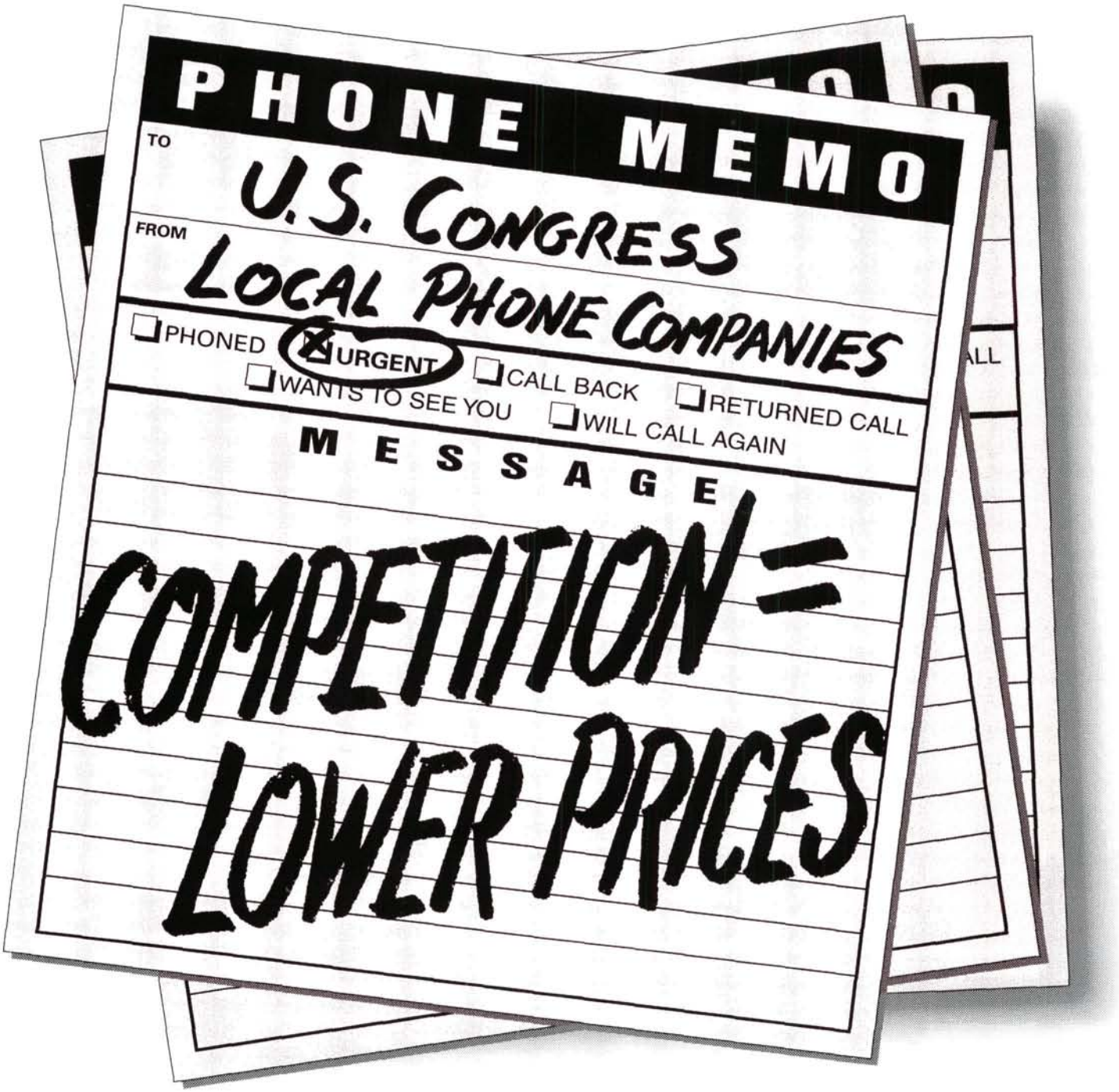

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DOBSON FOR PRESIDENT?

One conservative leader is so horrified by the possibility of Colin Powell's selection by Republican primary voters as the presidential nominee that he is considering a third-party run himself. No, not Pat Buchanan. James Dobson. Dobson is probably the most powerful figure in Christian radio; his literate 30-minute daily show, "Focus on the Family," is heard on 1,500 radio stations worldwide, and his books routinely sell hundreds of thousands of copies, mostly in religious bookstores. The former USC professor of pediatrics has built an organization with a budget in excess of $100 million a year and a mailing list of 5 million names.

One Dobson intimate says that if he announced a presidential bid, he would have 2 million volunteers ready to go by the time the words had left his mouth.

Ironically, Dobson bears some responsibility for the viability of a Powell campaign. He took the bloom off Phil Gramm's conservative presidential rose when he made a stink after a meeting with Gramm in which the Texas senator said, honestly enough, "I'm not a preacher." The refusal of the hard right to unify behind Gramm has divided his base and left a hole the size of a Mack truck for the moderate general.

Mr. Samplename's Planet

The Gramm campaign woes continue, with one of those direct-mail screw-ups that have political professionals in stitches, give Jay Leno and David Letterman material for days, and generally leave the impression that all is not well. A letter signed by Gramm supporter Sandra Mortham to 3,400 delegates attending Florida's Presidency III straw poll reads, in part: "Many people have been in touch with us and are strongly encouraging our campaign efforts. But, Mr. Samplename, we need your help . . . ."

Mr. Samplename! The gleeful Lamar Alexander campaign sent out an open letter from its Florida state director, Tre Evers, suggesting Gramm has a secret list of delegates his campaign should provide to everyone, "includ[ing], but not limited to, the following names about which it is rumored that you alone have detailed information: Mr. Careless Mailvendor, Mr. Yourjust A. Nameonalisttome, Mr. & Mrs. Insinceremail, Mr. Machinewritten, Dr. Robotletter. . . . "

Touché.

That's Who

Up-and-comers who aspire to a listing in *Who's Who* have at least two hurdles to overcome: getting their names into the book and, then, making certain other people know they're there. It's not clear what's required to achieve the first step, though the more assertive are invited to call the publication's editorial offices and nominate themselves for inclusion in one of the book's more than a dozen variations, including *Who's Who in American Nursing* and *Who's Who in Science and Engineering*. (The deceased can lobby for admission into *Who Was Who*.) For the already-listed, however, things just got a whole lot easier, thanks to a new line of products introduced by the Reed Publishing Company, publishers of *Who's Who* (as well as what may be the nation's definitive "retail clothing buyers guide"). For discriminating "Biographees," Reed now offers the Lasting Symbols of Achievement collection, knickknacks emblazoned with the buyer's name alongside the *Who's Who* seal.

A set of bookends ($134.00) is guaranteed to "stand witness to your achievements." A quartz clock ($155.00) "will not go unnoticed." A brass plate mounted on rosewood ($84.00) "acknowledges your achievements." A crystal paperweight ($115.00) is sure to be "a sparkling testament to your achievements." And for those who want the appropriate recognition wherever they go, Reed offers *Who's Who* lapel pins ($49.95), which "quietly declare your accomplishments."

Or maybe not so quietly.

The Reading List

Considering the president's recent telephone call to his critic, Ben J. Wattenberg, to apologize for his conduct as president after a cursory review of Wattenberg's new book, *Values Matter Most*, we thought Mr. Clinton might consider giving the following books a look and their authors a call:

The Vision of the Anointed, by Thomas Sowell. The surprise bestseller that explains the worldview of privilege and power shared by Bill, Hillary, Al, Ira, George, Robert, and Donna.

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Scrapbook

The Liberal Crack-Up, by R. Emmett Tyrrell, Jr. The 1984 tome that was both a description of, and a prediction of, the very weaknesses of temperament the president has lately been displaying.

Hell of a Ride: Backstage at the White House Follies 1989-1993. This marvelous, astounding book about the collapse of the last resident of the White House is included strictly for self-serving reasons: Its author is the deputy editor of THE WEEKLY STANDARD (and is typing these very words you are reading right now). He, too, would like to get a phone call from you, Mr. President, and we guarantee you the lead item in next week's Scrapbook. The number is 202-293-4900, in case the White House operator can't find it. Ask for John.

GOSSIP, GOSSIP

The most interesting newspaper correction in weeks appeared in the *Washington Times* on October 29. Under the heading "Explanation," the notice read: "The Washington Times regrets assigning Matthew Scully to review Jim Pinkerton's book. . . . The assignment was made without knowledge of prior personal differences between the reviewer and the author." Since this item will pop up forevermore in Nexis searches of the words "Pinkerton," "paradigm," and "Scully," it's only fair to explain the meaning of this remarkable little explanation, the oldest there is: *Cherchez la femme.*

Bush White House aide Pinkerton and Bush White House speechwriter Scully (he wrote for Dan Quayle) were serially involved with the same woman, a third White House scribe. This was the third occasion on which Scully had taken out after Pinkerton in print, and Pinkerton had finally had enough.

To see the STANDARD's take on Pinkerton's book, *What Comes Next*, turn to Alan Ehrenhalt's review on page 42. Appropriate measures have been taken to ensure that we have not inadvertently made the same mistake as the *Washington Times*.

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Casual

Low Spirits in Granola-Land

Fight the Right," beckoned the ad. "Decoding the Right," a four-part series, was to be held at the Social Action Leadership School for Activists (SALSA). The sessions were sponsored by the Institute for Policy Studies, the Washington-based booster of Castro, the Sandinistas, and all practitioners of "economic democracy" (that's Marxism to the unwashed).

SALSA! The very name evokes that Tio Sancho activism—spicy and overheated lasses with unkempt Bianca Jagger manes. This is my beat. When the weather turns each spring, I yellow-highlight the weekends when freedom-fighters are to storm the Mall. As an undercover spook for the right wing, I'm rarely disappointed. All it usually takes to staple the Granolae to the wall is a microrecorder and a fat lot of endurance.

Four Wednesdays consecutive, the bell rang and I was there—missing wife, dinner, *Beverly Hills 90210* to take my place in IPS's dingy outpost in D.C.'s Dupont Circle. The only cheeriness amongst the 10 or so people in the opening-night session emanated from the Skittles-colored *arpilleras*—hand-sewn collages telling tales of Chilean shantytowns and oppression.

Ah yes, CHEE-lay in the'70s. Those were some heady times, when IPS lost two employees to a Pinochet-era car bomb a few blocks away from this very building. It was this kind of high adventure I was hoping to absorb. But no such luck. Our course was for pros, by pros—muddy-eyed 501 (c)(3) foot soldiers from regiments like Earth First and the Doris Day Animal League. As for this business of decoding the right, Matt Freeman of People for the American Way assured us, "We're not talking about country rubes, we're talking about normal human beings. . . . The Christian Coalition doesn't have any magic dust, they're just working hard."

Mark, the greenie sitting next to me, nodded vehemently, nonplused by the rash under his beard and scarfing a vegetarian burrito out of a chain-gang mess-wagon skillet like his non-profit tax status depended on it.

I thought we'd come here to barb-que right wingers, but that was not on the docket. These people wanted answers, and the festivities turned morosely introspective, with a distasteful mix of self-doubt and self-loathing.

In the shadow of the diabolical 104th Congress, Freeman sensed sagging troop morale and limply suggested, "We have to force the debate on the issues and keep it away from generalities."

"How?" someone asked.

Robert Borosage, the former IPS director who had the oxymoronic distinction of once serving as Jesse Jackson's foreign-affairs braintrust, spotted trouble on the horizon for the next presidential election. "What it may come down to is a choice of character," he said. "And that surely is not going to be our strength."

He did have a plan, however, on how to broaden an eroding progressive base, citing Joe Klein's *Newsweek* cover story on capturing the "radical middle." "Here's how to get them," Borosage said. "Balance the budget, increase civility. . . . and I forgot the other two."

He later remembered—they were "clean up the system" and "decide what comes next." One quizzical pupil wanted to know what "next" should be. So Borosage offered his plan to jumpstart the gas-grillin', Jesus-freaked undereducated and overfed masses: "an internationalist trade position around labor rights and a global Keynesian agenda."

The class started to turn. "There's no vision coming from the universities and think tanks," cried one student. "There *are* no think tanks," retorted another. "The progressives are basically abashed, they're not confident in their views anymore," agreed Borosage.

Piped another disgusted firebrand: "The Left is insular, it's talking to one another. We need to go down to Dunkin Donuts where real people live—they don't read *Mother Jones* . . . they're reading the daggone *Washington Times* if they're reading anything—I don't know why that is."

"Colored sports page?" ventured Freeman.

"We're in a 20-year holding pattern figuring how to rebuild our infrastructure," said one fatalist. Agreed another: "To force change quicker than that, to not think about how we do politics, would be a tremendous mistake, even if we have to take it on the chin for three or five or however many years."

That was it—I had to bolt before they started sucking down cyanide Kool-Aid. This wasn't a fight, it was a wake. Where's the can-do-ism? Where's the pluck? One finds it difficult to imagine Ralph Reed gauging his impotence in a 20-year holding pattern.

As I walked to the car on this chilly eve, a street musician blew a little Chuck Mangione riff, harkening back to Carter-era Elysium—which put me in mind of another favorite relic, the venerable Dr. Hunter S. Thompson, who once observed, "Old whores don't do much giggling."

Matt Labash

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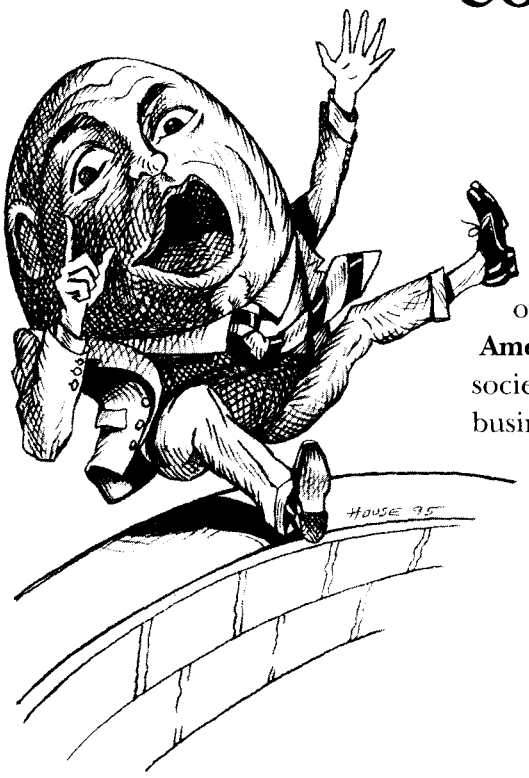
All the Government's horses and all the Government's men couldn't put America together again.



America's problems will be solved by its people, not its politicians. The central challenge for conservatives over the next 20 years is to restore the tradition of **American Citizenship** by repairing the institutions of civil society—families, communities, churches, volunteer groups, businesses, schools, local governments.

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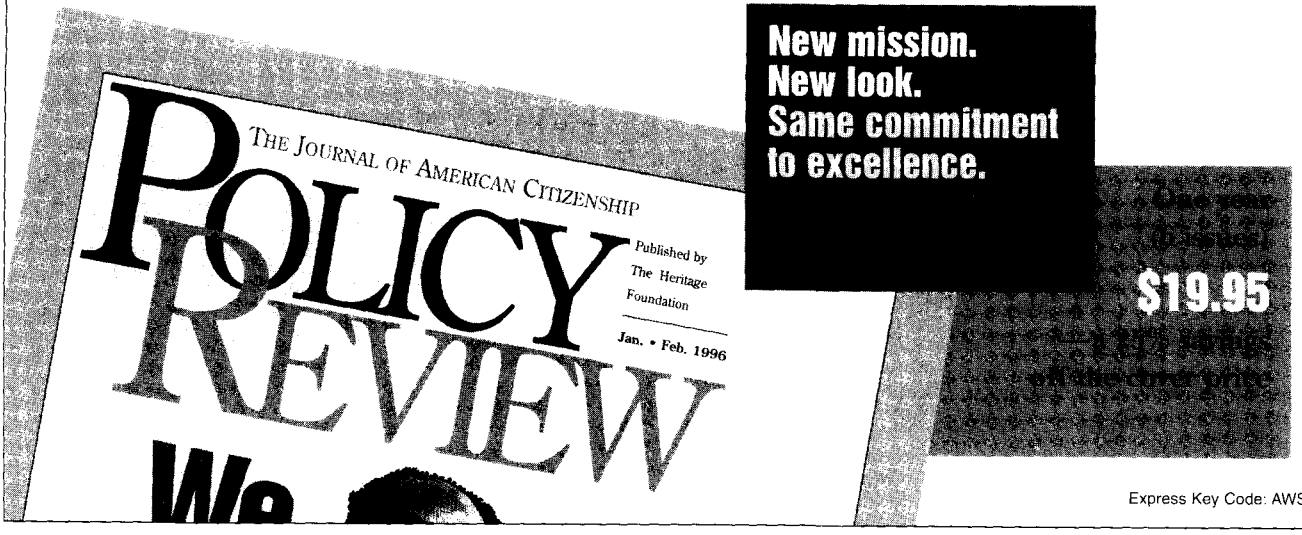

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A Kinder, Gentler Conservative

Gosh, isn't it just *awful* that Jack Kemp "was one of the few white Republicans to attend (as the guest of Rangel) the annual soiree of the Congressional Black Caucus" ("What Happened to Jack Kemp?" Oct. 30)? And it's so mysterious, too, because "there's no pragmatic explanation for Kemp's interest in race, either: His district was 1 percent black."

Kemp-bashing has long been a parlor game for some conservatives who find fault with his optimism, lack of anger, and disinclination to demonize the opposition. I guess it's just not sufficient that, for 25 years, Kemp led the movement to lower marginal tax rates, roll back communism, and make the GOP the majority party. I mean, at least not when compared with such sins as his actually liking, and caring what happens to, black Americans.

JOHN BUCKLEY
WASHINGTON, DC

Christopher Caldwell asks "What Happened to Jack Kemp?" What has happened to Kemp is what happens to many long-time conservatives once they are able to step back from the political mire of Washington. I use as examples Ronald Reagan, Barry Goldwater, George Wallace (a very conservative Democrat), and even George Bush.

All of these men, including Kemp, have stepped outside the center ring of the political circus, and have had an insight into the moral fallacy of some facet of their particular conservative policies. Call it repentance or atonement.

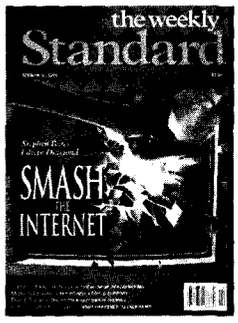
Wallace apologized for his opposition to segregation. Reagan, safe in retirement, announced his support for the Brady Bill. Most recently, George Bush resigned his membership in the NRA. What Jack Kemp seems to realize (particularly since his HUD experiences) is that we live in a nation of institutionalized racism in both government (federal, state, and local at one time or another) and business (large and small). This racism has led to decades of multigenerational inner-city poverty.

Accepting this premise, Kemp has also seen that government has for the most part been ineffective at changing this behavior and business has shown little willingness to try. Further, the conservative agenda of family caps, reductions in assistance, and devolution to the states, will only replace bad policies with worse.

ERIC R. K. OINES
MINNEAPOLIS, MN

Diversity on the Internet

There are thousands upon thousands of usenet newsgroups. One figure I have seen puts the total number slightly above 30,000 newsgroups worldwide. Stephen Bates and Edwin Diamond ("The Truth about Cyberhype," Oct. 30) take issue with 20 *alt.* groups, many of which are supposed to offend. That is their intended purpose, childish though it may be.



The great thing about newsgroups is that anyone may start one, even Bates or Diamond.

Sure, there's dross, sex, and juvenile junk on the Internet, but your authors should have told us about the religious, the medical, the scientific, the sociological, the historical, the regional, and so many other types of newsgroups.

LAURENCE T. MAY, JR.
CAMBRIDGE, MA

Pro-Abstinence Powell?

Marvin Olasky is a man of great eloquence and vision, but on the subject of Colin Powell, Olasky is exercising the art of wishful thinking ("The Right Colin Powell," Oct. 30). Olasky suggests that pro-lifers are wrong to condemn Powell for being pro-choice. "The Powell I could support would promote abstinence. He would use the bully pulpit in a credible way and he would push to substitute abstinence programs . . . this Powell would strongly support adoption."

Just what has Powell ever done that shows a commitment to abstinence? Olasky is asking us not to believe Powell's official pro-choice declaration, to think that somehow all along Powell has held passionate pro-life beliefs, and once elected—presto!—will lead the way via the presidential pulpit.

No one dares declare himself supportive of abortion today, not Bill Clinton, not Al Gore, not even their abortionist surgeon general nominee Henry Foster, who publicly claimed to "abhor" the profession he used to practice. They all embrace the "personally opposed, but . . ." position, but only as a political tactic designed to diffuse opposition from the right-to-life movement. Colin Powell has now joined their ranks and it is disingenuous for those who call themselves pro-life to treat him any differently.

L. BRENT BOZELL, III
ALEXANDRIA, VA

Term Limits Haven't Won

Charles Kesler severely underestimates the strength and breadth of the term limits movement ("Term Limits: Declare Victory and Go Home," Oct. 30).

The term limits movement is made up of more than conservative Republicans. Term limits supporters include independent Ross Perot and former Virginia governor Doug Wilder, a Democrat. Every poll on term limits shows broad-based public support for reform—always in the range of 70 to 80 percent—which differs little among voters characterized by gender, race, age, or party affiliation.

Kesler cites *The Federalist*'s argument against term limits. He does not mention that at the same time, Thomas Jefferson wrote to James Madison that he was troubled by the new Constitution's failure to include term limits for Congress; that George Mason refused to sign the Constitution for the same reason; and that Patrick Henry was impelled to lead the fight against ratification in part because there was no term limits provision. Madison designed the "convention route" to amend the Constitution in Article V precisely because he knew that Congress would not act against its own interests, so the states and the people would need a mechanism to make

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changes in the face of congressional opposition.

This, indeed, is the mechanism term limits activists are now using to advance their cause.

RICHARD E. SINCERE, JR.
ARLINGTON, VA

MARCHING IN IGNORANCE

The profile of the participants in the Million Man March, discussed by Matt Labash ("The March: What Was Said," Oct. 30), has some distressing implications. The poll found that 73 percent of the participants had at least some college education, but astonishingly, also found that 87 percent of the participants had "a favorable impression" of Farrakhan, and 88 percent "a favorable view" of the Nation of Islam.

That so many who have gone to college have so positive a view of this disseminator of preposterous lies is surely a testament to the failure of colleges to educate at least a significant number of students. If the colleges had succeeded in their mission to disseminate knowledge, these "educated" blacks would readily dismiss Farrakhan (and his clones) as falsifiers of the historical record.

Farrakhan's claim that Jews had "monumental culpability" for slavery and the slave trade is, of course, a monumental lie. As a statement published by the American Historical Association has shown, Jews had an extremely marginal role in the slave system. Similarly, Farrakhan's charge that Jews owned 75 percent of the slaves in the American South is absurd. Indeed, in 1830, the year on which Farrakhan's tract on the subject dwells, black slaveholders outnumbered Jewish ones by 15 to 1.

EUNICE G. POLLACK
OKLAHOMA CITY, OK

KEEP LIBERTARIAN IDEAS

It is unfortunate, as David Brooks notes, that the Republican party is moving further and further away from the libertarian ideas which characterized the early months of the 104th Congress ("Coats of Many Colors," Oct. 23).

It is unfortunate because a libertarian platform is a winning platform for Republicans. To a great extent, the sweeping victories of 1994 took place because the Contract with America is largely (but by no means completely) a libertarian document. The main points of the contract—a balanced budget, regulatory reform, term limits, a tax cut, and welfare reform—all point to smaller, less intrusive government.

The move away from libertarian ideas is unfortunate also because it is based on incorrect thinking about cultural decay. Brooks correctly states the libertarian case that the "perverse incentives of the welfare state reward illegitimacy and joblessness."

The Coats response, that the "underclass is by now a by-product of cultural decay," begs the question of what has caused the cultural decay. Cultural decay is 100 percent the result of the growth of government.

Brooks correctly notes that "when government tries to influence private decisions, the effects are usually perverse."

As easy and attractive as government-created (or -sponsored) civil society may sound, the above statement about perverse effects is no less valid for conservative social engineering than for liberal social engineering.

It was a libertarian contract which achieved the Republican majority in Congress. It seems that, like our president, Republicans now spend most of their time holding their fingers to the wind.

I fear that 1) they are misperceiving the wind direction; 2) polls showing disapproval for Republican policies are misleading because they include in that disapproval those who believe Republicans are no longer doing enough to downsize government; and 3) the Republican majority and revolution will end in 1996.

KEVIN SACHS
GETZVILLE, NY

RUSH WROTE IT. I KNOW.

I appreciated William Tucker's essay ("Newt Wrote It. I Should Know." Oct. 16) setting the record straight on who wrote Newt Gingrich's book and how.

Unfortunately, in relating his story about the collaboration project he was involved in, he inadvertently misrepresented the facts concerning at least one of Rush Limbaugh's best-sellers. Tucker claims Limbaugh's two books were essentially rewritten transcriptions of conversations.

Not true of *See, I Told You So*, on which I had the honor of assisting The Great One.

JOSEPH FARAH
SACRAMENTO, CA

PEACE AT PUGWASH

As a U.S. citizen and former secretary general of Pugwash from 1976-1988, I find Eric Breindel's article ("Pugwashing the Truth," Oct. 30) mean-spirited and a total distortion of the truth.

It would appear that Breindel belongs to the cold warrior caste, joining Pierre Lellouche and Frank J. Gaffney, Jr. It is the advocacy of that caste which has brought the world to the brink of nuclear destruction several times since the Second World War, for example, in the Korean and Vietnam wars and the Cuban missile crisis.

The article made not the slightest reference to the many accomplishments of Pugwash since its inception in 1957, which no doubt were the basis of the Nobel Prize. It does, however, echo the absurd accusation that Pugwash was a dupe of Soviet propaganda.

That canard is grossly insulting to many outstanding scientists, military authorities, and politicians of the West and East who have attended Pugwash meetings. President Bush even sent a message to the 39th Pugwash conference, which said in part, "By fostering the international exchange of ideas and opinions on the key science and public policy issues of the day, Pugwash has made a valuable contribution to world peace and understanding." Kremlin dupes?

The scientists of West and East were not naive. They were entirely aware of the political constraints and surveillance under which East Europeans had to act. But because of the special bonds of confidence that existed between these persons of all political persuasions, they took these constraints in stride and maintained an informed awareness of the perils of the arms race for their own countries and for humanity in general.

MARTIN M. KAPLAN
COLLONGE, SWITZERLAND

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A balanced budget would save Americans 10 years of mortgage payments. Think what that would do for *your* standard of living.

Interest rates are a factor of demand. When government deficits prevail, drying up the credit pool, interest rates remain high. Government crowds out the private sector and bids for capital regardless of the economic conditions or the level of interest rates. A balanced budget will mean a sharp reduction in interest rates. That translates to a savings of nearly 10 years in mortgage payments if interest rates decline by only one-third. Think of the economic purchasing power added to our economy. Think about the millions of jobs it would create. The benefits would be staggering.

Who benefits from Uncle Sam's debt?

Those who still believe government spending stimulates the economy are living in a world existing only in theory. At times, 40 percent of the national debt is held by non-American investors. This means we export more than $100 billion in interest expenditures that *never* stimulate the domestic economy. For example, the Japanese made more on their investments in the United States over the past decade than they did off of their trade surplus.

It's time the lies stop. It's time Congress stops promising the moon while blocking the sunlight of personal economic freedom and opportunity. Government cannot manage every aspect of our economy. Russia tried and look what happened. It's time for honesty, not exaggerated rhetoric. The people deserve more.

For more information on the Princeton Proposal for tax reform & economic growth, contact:

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the weekly Standard

How to Think About Race and Prison

Last week, Congress and the White House joined forces in the drug war. New guidelines from the U.S. Sentencing Commission would have equalized the treatment of crack and powder cocaine where federal sentences for drug trafficking are concerned—by sharply reducing crack sentences, in effect. Congress balked. The president agreed, signing legislation to block the change. And therein lies a tale about crime and race in America that you will not read in the *New York Times*.

Under existing law, it takes 100 times as much powder as crack to trigger the same federal prison term. Possession with intent to distribute 500 grams of powder gets you a "minimum mandatory" five years in the big house. Crack dealers suffer as severe a penalty for "merely" 5 grams of their stuff.

Chemically speaking, the two drugs are identical, and cocaine powder is used to manufacture crack. So the current sentencing scheme has its obvious anomalies. A retail crack dealer faces a sentence two to six times stiffer than the mid-level powder dealer who sold him his supply in the first place—even though, in the narcotics-world scheme of things, the crack dealer is arguably a less significant player.

And then there's the question of race. The vast majority of sentenced federal crack defendants—90 percent of them in fiscal year 1994—are black. Blacks are *not* a majority of sentenced powder defendants, however. The effect of federal sentencing practices, then, is to send more blacks than whites to prison, for longer periods, as punishment for selling lesser quantities of essentially the same substance. And drug offenders are the fastest growing sector of the federal inmate population.

Does this mean the drug war—and, by extension, American justice generally—is racist? It's an increasingly popular worry these days. The president himself says that "something is terribly wrong" when almost "one in three African-American men in their twenties" is "under the supervision of the criminal justice system." Speaking in Austin last month, he specifically condemned the "disproportionate percentage" of black drug defendants in prison "in comparison to the percentage of blacks who use drugs in our society." And he has more than once singled out the 100-1 crack/powder sentencing ratio as unfair.

Still, the president did sign bipartisan legislation to maintain that ratio last week. And so, predictably, he was swiftly condemned by almost everyone who had anything to say on the subject. The *Washington Post*, for example, mocked Clinton for employing "the usual anti-crime rhetoric" in defense of federal policies that "operate unjustly." He made "the easy, politically safe choice" in an election season, "but it was the wrong one."

No, it wasn't.

To begin with, the numbers now commonly adduced in support of drug-sentencing reform are misleading. Take the following ritual incantation about cocaine enforcement, for instance: Blacks are just 13 percent of drug users, but nevertheless are involved in 35 percent of possession arrests, 55 percent of drug convictions, and 74 percent of drug-related prison sentences.

All basically true. But false at the same time. *User* statistics tell us nothing sure about the skin color of *dealers*, who are the overwhelming majority of federal and state drug defendants. And even insofar as users are a crude, commonsense proxy for dealers, these numbers deceive. They're not *cocaine*-specific at all.

According to the 1991 federal Household Survey on Drug Abuse, while blacks account for 11.7 percent of the total population, they make up 21.8 percent of past-month cocaine users, and 41.2 percent of weekly cocaine users. Both these numbers are low-end estimates. The survey covers households only, and misses certain groups—like the homeless—widely assumed to use cocaine at higher levels. A more recent federal survey makes clear that blacks are patients in cocaine-related emergency-room visits at almost 14 times the rate for whites.

So though a user/convict disparity remains, it is significantly smaller. And a closer look at the statistics *does* tend to confirm the "media stereotype" that the

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cocaine (and crack) business, with all its horrors, is heavily concentrated in black, inner-city neighborhoods. Which is why, quite naturally and appropriately, drug law enforcement resources are "disproportionately" devoted to those neighborhoods. And why the pool of potential prison inmates—people arrested on drug charges—is so heavily skewed towards blacks.

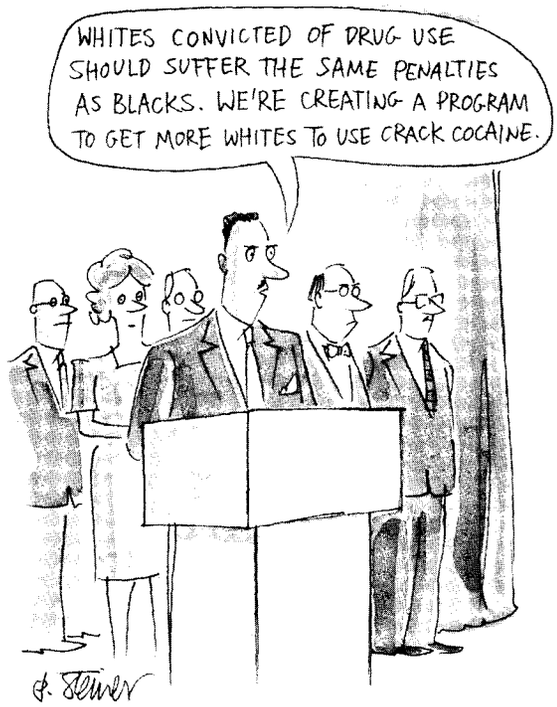
Who are the nation's sentenced black drug offenders, though? If you join the 100-1 cocaine sentencing ratio to President Clinton's statistic about one-in-three young black men living under judicial scrutiny, you might easily conclude that America incarcerates millions of non-violent black youths for small-time trafficking. But you'd be wrong. The 100-1 ratio is essentially irrelevant to the overall prisoner population. It applies only to *federal* trafficking crimes, and 90-plus percent of American inmates are in *state* justice systems.

Moreover, nowhere near a third of all young black men are actually in prison. A full 480,000 of the 785,000 such men "supervised" by the criminal justice system are on probation or parole, which as things now stand (alas) means next to nothing. Another 95,000 young blacks are in jail awaiting trial or serving short time. Most of them will soon be out.

So there are really about 210,000 young black men in prison, or 8 percent of their total age group. And they are just like the 260,000-odd white and Hispanic young men in prison: Most of them are exactly where they belong. Ninety-four percent of all state prisoners are violent or repeat criminals. Ninety-two percent of federal inmates have a history of violence. The typical federal crack defendant—to whom the 100-1 ratio *does* apply—has sold 109 grams of cocaine, or roughly 3,000 individual doses, and has a criminal record. There were 3,430 federal crack defendants in 1994. Only 48 sentences were given to young, non-violent minority males with no prior records.

The crack/powder sentencing ratio President Clinton affirmed last week reflects Congress's sensible judgment that crack is the more dangerous form of cocaine. It is more addictive. And its dealers have by far the worst criminal profiles of any federal drug defendants. On average, they have much more extensive and serious prior records. And they are much more likely to possess a weapon at time of arrest. Federal law makes similar sentencing distinctions for other drug crimes. Opium is dealt with less harshly than its heroin derivative. And "ice" is punished more severely than chemically related methamphetamine. There's nothing "racist" about it.

Neither, it must be said, is there anything magically "right" about a 100-1 ratio, and there's much that's inconsistent and inequitable about it. But reducing that ratio needn't involve lesser crack sentences. The Sentencing Commission's proposed 1-1 ratio would have allowed 50-gram crack dealers, previously subject to mandatory 10-year terms, to escape prison entirely in some circumstances—and return to their neighborhoods. Black America wouldn't have been better off. There's another way, of course. Senator Spence Abraham has proposed a measure to cut the ratio to 20-1 by *lengthening* sentences for *powder.*



Don't hold your breath waiting for critics of the current system to embrace the Michigan Republican's bill. It would be more "fair." But it wouldn't address racial imbalances among prison inmates, either. More blacks than whites are charged with federal *powder* offenses, too. In fact, *no* ratio change can significantly alter existing inmate demographics; the entire controversy is bogus. Had the Sentencing Commission proposals taken effect, they would have produced a long-term reduction in the federal prisoner population of fewer than 5,500 individuals. Not much dent in a 210,000-man problem.

There are only two ways for the nation to redress black overrepresentation in federal and state prisons, as it should. We can grant early releases to whole classes of drug and violent offenders. Or we can try to reduce crime rates at the front end. Only the latter option is sane and just.

— David Tell, for the editors

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QUOTAMANIA: THE SEQUEL

by Linda Chavez and Daniel Sutherland

PRESIDENT CLINTON HAS VOWED that his administration will "mend" affirmative action. Thus, the axing of a $1 billion Pentagon set-aside program, announced on October 23, might well be mistaken for a sign of things to come. In reality, administration documents show that Clinton is bent on maintaining racial preference programs.

"The administration was forced to drop the Pentagon program because of pending litigation in New Mexico," explains Rep. Charles Canady, chairman of the Constitution subcommittee of the House Judiciary Committee. "They had to defend the indefensible or abandon the program. They chose the latter."

Indeed, shortly before the Pentagon's announcement, an impatient federal judge in New Mexico had ordered Justice Department lawyers to prepare to defend a Pentagon regulation challenged by McCrossan Construction of Las Cruces. At issue was the "rule of two," guaranteeing that *any* Pentagon contract on which two or more minority businesses submitted bids must go to a minority. The 1995 Supreme Court decision in *Adarand Constructors* v. *Pena* had struck down a similar racial preference. Faced with the near certainty of losing the suit, the administration folded.

But more important than the demise of the rule of two is the Clinton administration's decision to keep the rest of the federal minority-contracting system in place. For example, the administration plans to retain the "10 percent bid preference": Minority-owned companies will win contracts, so long as their bids are no more than 10 percent higher than the best non-minority bid.

"The bid preference is in some respects even worse than the rule of two," says Kelly Albers, attorney for the plaintiff in the New Mexico suit, "because non-minority companies will expend significant time and energy going through the bidding process but almost always lose in the end because they cannot lower their bid by more than 10 percent and make any profit." Albers calls the 10 percent preference simply "a more subtle way of ensuring that the minority business still gets the contract."

Nor is minority contracting the only area where Clinton will retain unconstitutional racial preferences. Judith Winston, the top lawyer at the Education Department, recently wrote a letter to all universities and colleges advising that, despite a series of unfavorable court rulings, "race-targeted aid programs" should not be revised. John Schmidt, the number three official at the Justice Department, similarly notified all federal agencies that they may make no changes in affirmative action programs without the department's approval. In a section of the memo headed "Maintaining the course," Schmidt wrote, "It is important that you consult with us before your agency takes any action to suspend, eliminate or reform an affirmative action program.'" In another memorandum, Schmidt invited the agencies to help in developing a library of studies, reports, and articles that "can be woven together into an evidentiary mosaic" to defend racial preference programs.

In an even more revealing memo last summer, the administration signaled its intention to subvert *Adarand*. Assistant Attorney General Walter Dellinger informed all departments and agencies of three litigation strategies the Justice Department will follow in fending off challenges to affirmative action.

First, the department will argue that programs promoting "diversity" are constitutional because diversity makes government activities more successful. Race-based admissions to universities, for example, diversify the student body and thus "enrich the academic experience." In defending race-based hiring for law enforcement jobs, the department will argue that multiracial police forces are more effective. The same claim will be made to justify hiring quotas in government policy-making jobs and in judicial selections.

The vague notion that diversity is valuable may convince some lower court judges sympathetic to affirmative action, but it will not satisfy a majority of the current Supreme Court. The court has been quite explicit in forbidding racial classifications unless there is a "finding" of a specific constitutional or statutory violation of an actual individual's civil rights. Since it will take years for new cases to reach the court, however, the administration's diversity argument may successfully delay the dismantling of racial preferences.

Second, the Justice Department plans to use "disparity studies" extensively in litigation. These studies analyze statistical differences between the minority presence in a given labor market and minority hiring in particular jobs or the success of minorities in winning contracts in that market. When such disparities are significant, they are deemed to establish a prima facie case for discrimination. The Dellinger memo advises federal agencies to accumulate evidence of disparities between the number of available minorities and the number of jobs or contracts minorities receive.

State and local governments have commissioned dozens of disparity studies in the past five years, and

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these are proving to be potent weapons in the hands of the defenders of racial contracting policies. For example, a study persuaded the Ninth U.S. Circuit Court of Appeals that the city of San Francisco—one of the most militantly anti-discriminatory communities in the world—is racially biased when it awards contracts. The court therefore allowed the city to direct a substantial share of city contract dollars to minority-owned businesses.

This strategy has proven successful for two reasons. First, courts are receptive because disparity studies are sophisticated, lengthy, and written with federal judges in mind; the authors know the terms and phrases the judges want to see. Second, refuting these studies can cost hundreds of thousands of dollars and thus is far beyond the means of most groups and individuals who want to challenge racial preference programs.

Despite their success in court, however, disparity studies should be viewed with skepticism. Researchers know the result they will reach before they begin compiling data. Companies that perform such research learned early on that if they did not find disparities caused by racial discrimination, they would never be hired again. When KPMG Peat Marwick's disparity study for Miami found no clear evidence of discrimination against blacks or Hispanics, the city commission rejected the research and ordered its own staff to prepare a study with more acceptable results. George LaNoue, a political scientist at the University of Maryland who follows these studies closely, has written that few of them apply "any of the conventional social-science tests to determine validity."

Third, the Dellinger memo urges agencies to downplay race by making it one of several factors in a decision. Government decisions that "merely use race or ethnicity as one factor to be considered under a program open to all races and ethnic groups" are more likely to survive challenge, Dellinger advises. A university, for instance, might say that race is only one of several criteria it uses in admissions. A contracting official might say that he did not award a contract because of the race of a company's owners—he merely gave the company a "plus factor" when the final decision was made.

This strategy provides at least temporary cover for maintaining racial preferences. To be sure, the Supreme Court has already ruled against it; the federal program struck down in *Adarand* gave prime contractors a financial incentive to favor racial minorities in selecting subcontractors. But the *Adarand* majority was just 5-4—which keeps hope alive that the court's composition may change and the pendulum swing back toward racial preferences.

Given the administration's hostility to ending racial preferences and the court's narrow margin of opposition to race-based affirmative action, legislation is the only sure way to end racial preferences. Early in 1996, Congress will take up the Dole-Canady bill, which would require the federal government to stop classifying people by race in federal contracting, employment, and programs. Dole-Canady is a good first step toward colorblind public policy. House leaders have been reluctant to schedule action on Dole-Canady this year, but their resolve might stiffen as the election nears. In a promising move, Speaker Gingrich in late October announced his support for the California Civil Rights Initiative, a ballot measure that would ban all racial preferences adopted by that state. Eventually, Congress itself should consider prohibiting racial classifications in state and local government employment and contracting, as well as in public colleges and universities.

Short of such a clear and comprehensive ban, the "mending" that Clinton has embraced will leave government action at all levels riddled with racial preferences.

Linda Chavez is president of the Center for Equal Opportunity, where Daniel Sutherland is a legal scholar.

Clinton Goes Blue Dog

by Tod Lindberg

With little fanfare, the White House, in the person of Chief of Staff Leon Panetta, took another step in the direction of the GOP budget last week. He allowed as how a budget package offered by conservative House Democrats—the 20-odd group that has dubbed itself the Blue Dog Coalition—might form the basis for negotiations on a final package with Republicans.

It's an interesting adventure in Budgetville. Not that anyone paid much attention, but for a couple of hours before the Republican budget bill passed the House on Oct. 26, there actually was a serious budget debate on the floor between full-blown competing alternatives.

As is the custom in the House, the majority Republicans let the minority offer a substitute budget bill.

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Such a bill must always be a true substitute for its majority-sponsored counterpart. That meant the Democratic alternative had to balance the budget in seven years, as determined by the "scoring" of the Congressional Budget Office, just like the Republican bill.

Those rules were fine with the deficit hawks of the Coalition, under the leadership of Budget Committee member Bill Orton of Utah. The package they put together offered $858 billion in deficit reduction in seven years, enough to yield a budget surplus of about $35 billion in its last fiscal year. The most striking and important feature of the Coalition budget is that it includes no tax cut. Since the GOP plan calls for a $245 billion tax cut that has to be "paid for" by offsetting spending cuts, that's $245 billion in spending cuts Democrats don't have to make.

So the Coalition budget slows the growth in Medicare spending by only $168 billion, instead of the GOP's $270 billion. Medicaid also takes a much smaller hit: $85 billion versus $169 billion. The Coalition plan funds job-training and other "investment"-style programs at much higher levels. Cuts in discretionary spending total $69 billion instead of the GOP's $143 billion. And the Coalition cuts the popular student loan program exactly zero dollars, in pointed contrast to the GOP's $10 billion.

It's a serious budget-balancing plan—a fact that sheds a little light on all the moaning about how difficult it is to balance the budget. Look at the features of this plan: You can balance the budget *and* let Medicare premiums paid by oldsters actually fall from 31 percent of costs to 26 percent.

Not that "cuts" like this were acceptable to most Democrats—including, preeminently, the House Democratic leadership. In fact, minority leader Dick Gephardt and whip David Bonior took a pass on the whole thing. They just handed over the Democrats' time on the floor to Orton and the Coalition. We thus had the curious spectacle of a Democratic substitute that was not supported by Democratic leaders in the House. The Coalition budget attracted 73 votes, including four Republicans.

All year at the White House, the administration has divided its time between denouncing Republicans and conceding ground to them. First, the administration proposed a budget that never would balance, nor was meant to. Then came a plan to balance the budget over 10 years—except that it relied on rosy administration assumptions, and the CBO determined that it would actually yield $200 billion deficits in perpetuity. Then the president said maybe nine years—then maybe eight, then maybe seven. But all along the administration was still unwilling to say it would play by CBO rules instead of its own. Now, by its possible embrace of the Coalition budget, the administration can get the blessing of the CBO.

What about a tax cut, which the president has said he wants? How to pay for it? Well, there's the $35 billion surplus in the Coalition budget. In addition, the reduction in Medicare growth the administration itself has proposed is about $20 billion higher than the Coalition's. That's $55 billion for cutting taxes with no pain and suffering at all. It's a start.

What's odd is this: If this is where the administration has been going, why did it take so long to get there? Had the White House recognized it sooner, the Coalition budget could have served as a serious political bulwark against the Republicans.

Accepting their rules, it would try to beat them at their own game, trading in the end a smaller but still substantial tax cut for more spending on key constituencies. Pick the constituencies correctly and you have a decent shot at splitting the Republicans. It could have been a model for Clinton administration legislative strategy.

It's too late for that. Momentum matters. Rather than a bulwark, the Coalition budget is likely to be the latest in a series of administration concessions, concessions that seem never to end. ♦

Don't Run, Colin, Don't!

by Fred Barnes

Colin Powell tells a funny but humbling story about his post-military life in *My American Journey*, his best-selling autobiography. While driving an old Volvo on the Washington Beltway during rush hour, he ran out of gas. A traffic officer happened along and squirted a half-pint of gas in his tank. So Powell drove away, looking for a gas station. Before he found one, he got caught in another traffic jam and ran out of gas again. "I told myself," he writes, "Mr. Powell, becoming a civilian is going to be harder than you expected."

The same applies to politics, especially at the presidential level. Powell has many gifts of leadership—commanding presence, no-nonsense speaking style, sterling character, striking likability—but these

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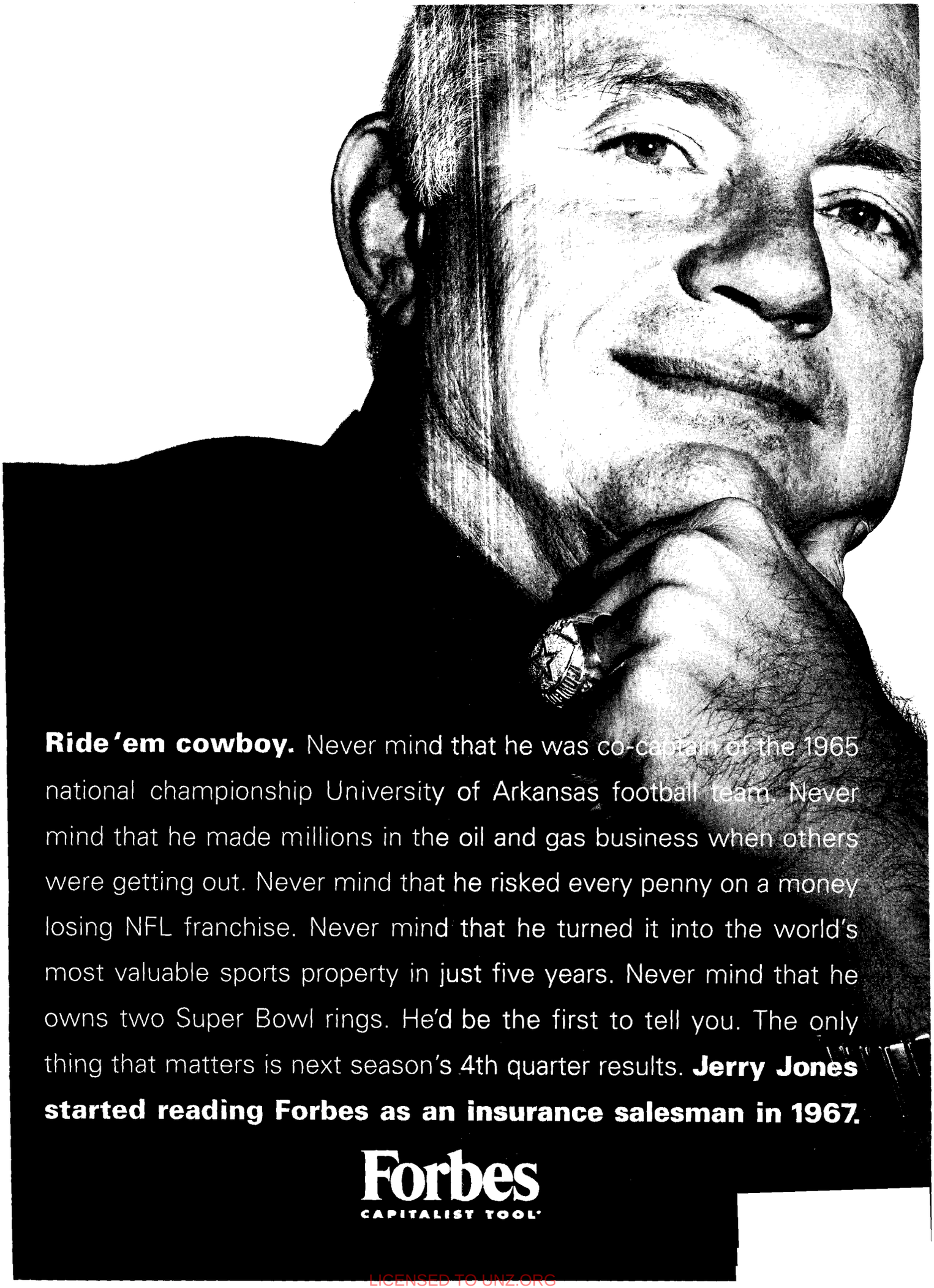

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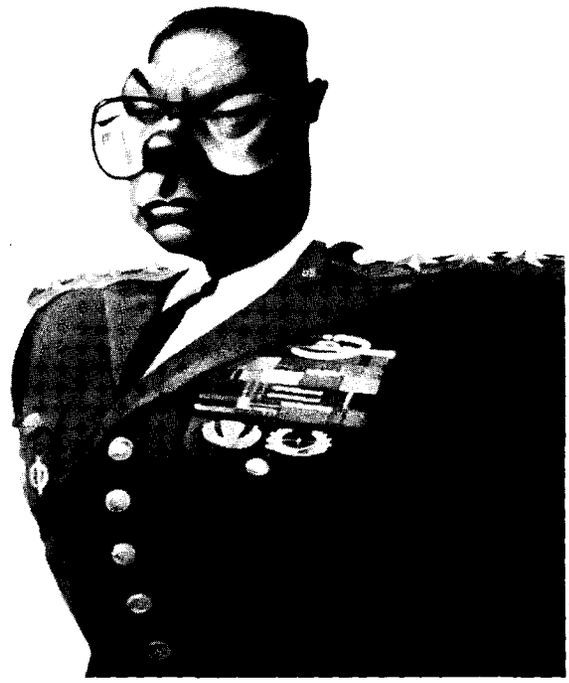
wouldn't automatically make him an effective candidate for the Republican presidential nomination in 1996. In fact, there's a strong case that he shouldn't run.

He's not ready. "I'm still finding myself," Powell told Larry King on CNN. The worst place to do this is in a presidential race. True, candidates often develop ideas and themes while campaigning in the months before the first primary. But this works for those stumping in relative obscurity, as Jimmy Carter was in 1975. Powell won't have this luxury. From the moment he announces, the media will magnify every word he says. If he alters a position, even minutely, or changes his emphasis, even slightly, reporters will pounce.

"I do have views on most of the pressing issues out there," Powell assured David Frost. But it's clear he hasn't thought through those views on domestic and economic issues. This is bound to cause trouble. He's for affirmative action but not preferences, despite the organic connection between the two. He also says America is a "racist society," which argues for preferences to compensate for past bias. He's for the Republican version of Medicare reform, but only because he hasn't seen the alternatives. He's for cutting taxes, but maybe for raising them in some circumstances. He's against taxpayer-funded abortions—well, for now, anyway. Powell's positions are frequently self-cancelling. Maybe he likes them that way. But opponents and the press would have a field day poking holes in them.



John Kascht

Bob Dole insists Powell is welcome in the race. "We'll go out to Iowa and talk about target prices, hog prices, corn prices," Dole says, a semi-grin on his face. He knows Powell isn't prepared to do what presidential candidates must: talk with specificity on issue after issue. Powell is fuzzy on most issues. He doesn't know enough about the details of the GOP tax cut to judge it, he said on *CBS This Morning*. He's for a new health care system, though he adds, "I'm not sure exactly how to do it." Hiking the minimum wage? That one he's "still studying." Not to be cruel, but he sounds like Admiral James Stockdale, Ross Perot's running mate in 1992 who confessed to being "out of ammo" on some domestic issues.

He'd be a weak Republican nominee. What Republicans need to defeat Bill Clinton next year is party unity. If the GOP nominee gets a one-on-one shot at Clinton, chances are he'll win. And that goes for any Republican with a realistic prospect of winning the nomination (Dole, Phil Gramm, Lamar Alexander)—but not Powell. If nominated, he'd provoke a breakaway third-party campaign, perhaps by Pat Buchanan, perhaps by another pro-lifer, whose effect would be to draw Republican votes and re-elect Clinton.

Powell also seems politically tone deaf in talking about issues. I assume he wants to woo GOP voters, since he's said from the outset that he's not a Democrat and would rather run as a Republican than as an independent. So why would he immediately declare himself pro-choice, pro-gun control, and dubious of the Christian Right, thus alienating the conservative base of the party? The only explanation is he didn't understand how all that would be received.

He would never get along with Newt Gingrich. There are two things Gingrich hates about the presidential race (other than that he's not running). One is that Buchanan might define conservatism. The other is that Powell might define Republicanism. By declaring himself a "Rockefeller Republican," Powell cast himself as out of sync with the Gingrich revolution. This was a big mistake. Gingrich is not only the GOP congressional leader, he's the soul of the party. He, more than anyone, sets the agenda. Dole has come to terms with Gingrich. Gramm and Alexander would if elected. But President Powell would be under enormous pressure from establishment Republicans and the media to thwart Gingrich's conservative agenda. Trouble would ensue.

Powell's supporters haven't made the case for his candidacy. They claim he's more conservative than he's sounded. If so, he's got a lot of rowing back to do, a process that will harm his reputation as a guy who stands behind what he says. Citing polls showing him as the only Republican who beats Clinton, they argue

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he's a sure winner. But these are polls on Powell the general and war hero. He'll be seen differently—and less favorably—once he announces.

Powell's noisiest ally, Bill Bennett, is an intellectual giant among Republicans, but he comes across as a political hack reading talking points when he touts Powell. A party with Buchanan, Morry Taylor, and Arlen Specter as presidential candidates "can sure as heck make room for Colin Powell," he said on *Face the Nation*. Room, however, isn't the issue. Whether Powell should be the GOP nominee is. Bennett zinged critics who say Powell isn't conservative enough. Powell is a hero who is respected by Americans, Bennett said. "Of course we want him in our party." True, but that's not an argument for making him the nominee. Sure, Powell will take some flak as a candidate, Bennett concedes. But he's "taken unfriendly fire before, real unfriendly fire." Please.

He has a great fallback position. Powell is assured of one thing: a big job in the next Republican administration. My guess is he'll be the running mate of whatever Republican wins the presidential nomination. If not that, he's a good bet for secretary of state, a post for which he is immensely qualified. As clumsily as he talks about domestic issues, Powell discusses foreign and defense issues with considerable confidence. By staying out of the race, he can't lose. By getting in, he might.

Resisting the temptation to run, given the polls and the pressure, may be more than Powell can do. One of his 13 rules for life, listed in *My American Journey*, suggests he ought to run:

"Don't let adverse facts stand in the way of a good decision." In his case, the opposite is true. Powell shouldn't let a few favorable facts force a bad decision. ♦

More Tests, Nicer Campus

by George Jochnowitz

It happened at Columbia University, my alma mater; it did not happen at the City University of New York, where I teach. The *Columbia Daily Spectator*, an independent undergraduate newspaper, ran an opinion piece by its bimonthly columnist Sharod Baker filled with snarls like this: "Lift up the yarmulke and what you will find is the blood of billions of Africans weighing on their heads." And this: "I do not say that all Jews are evil. I do not know all Jews."

Columbia College relaxes its standards to admit more minority students. A double standard condemns those it favors. The minority students are forever being compared with those selected according to more rigorous criteria. Could anyone have invented a system better designed to create resentment—on both sides? Minority students withdraw into their own dormitories and associations, the better to nurse their resentments. Thus, universities have been, in effect, teaching their minority students to be isolated and angry. For over 20 years, Ivy League schools have been depriving black students of their right to a normal college education. The City University of New York, in contrast, has a policy of open admissions—the opposite of affirmative action. There are no victims. There are no double standards. There is no resentment.

Open admissions has been highly controversial; many conservative educational scholars consider it an abomination. But consider: At my own branch of CUNY, the College of Staten Island, there are no segregated sections in either of the two cafeterias for members of different minorities. To be sure, one may pass a table where Cantonese or Haitian Creole or Arabic is being spoken; it is much more likely, however, to find integrated tables, where English is necessarily the lingua franca. The College of Staten Island has achieved the truest and best form of integration: Students move back and forth freely from their own groups to others, without making an emotionally charged decision in either instance.

Open admissions has led to a high dropout rate. This is not a problem. A school may be selective in its admissions policies, or it may allow the educational process to do the choosing—a more accurate and relevant form of selection, albeit a more expensive one. Education does not lead to equality. While it breaks down old class barriers, it builds new ones in their place—and at CUNY, those barriers are meritocratic ones. Open admissions has led to the introduction of assessment tests in reading, writing, and mathematics. Students must pass these tests before being allowed into required freshman courses. Maybe all colleges should have such tests. Perhaps there are even Ivy League undergraduates who would fail the CUNY writing or math exams. Who knows?

I can already hear the prosecution rise with an objection: What about Professor Leonard Jeffries, a City College faculty member who has made offensive statements about Jews? He is not relevant to our dis-

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cussion; he is not a CUNY student. He was not admitted through the colorblind process of open admissions. Like Sharod Baker at Columbia, he was chosen and nourished by affirmative action, given tenure because of affirmative action, made a department chairman for the same reason.

Affirmative action has been viewed as a tool to narrow gaps between the races in the workplace and on campuses. Since the implementation of this policy, this gap has broadened, as has the alienation. When colleges teach resentment and self-segregation instead of knowledge and clear thinking, they are teaching failure. Education loses not only its value but also its dignity. When a college education seems to be illegitimate—the lesson taught implicitly on the affirmative-action campus—then the very boundary between the licit and the illicit has been broken.

The City University of New York has preserved the American dream. We already know from surveys conducted by Standard and Poor's that more top executives have been getting their undergraduate degrees at CUNY than at any other university in the country. Minority students educated at CUNY will succeed as CUNY undergraduates have always succeeded—because there is no favoritism there. Education and honesty go hand in hand. May Columbia learn from CUNY's experience.

George Jochnowitz's article, "Rule by Thieves," appeared in the Sept. 18 WEEKLY STANDARD.

QUEBEC: GOING, GOING . . .

by David Frum

IT WAS A SCENE FROM the Latin America of the 1950s, or, perhaps, the Europe of the 1930s. Near midnight, Jacques Parizeau, the heavyset, mustachioed premier of the province of Quebec, puffed to the rostrum to acknowledge his 50.5 to 49.5 percent loss in the October 30 referendum on secession from Canada.

"It's true we have been defeated," he declaimed with a bitter smile. "But basically by what? By money and the ethnic vote." The important thing, he added, was that 60 percent of French speakers—of "those who make us what we are"—voted in favor of secession. Parizeau continued: "I know many of you will want to hit a wall—or something else." But have patience. "We will have our own revenge and we will have our own country."

It was an apt conclusion to a day that shocked the mild sensibilities of English Canada. Voters in English-speaking neighborhoods suffered delays of more than two hours, as government-appointed scrutineers outfitted with electoral lists on which non-French names had been marked in yellow highlighter painstakingly checked their identities. Government-appointed vote counters rejected 2 percent of all ballots cast for being improperly marked; up to 12 percent in constituencies known to oppose separation. In at least one instance, a voter wearing the red poppy insignia that commemorates Canada's war dead (Canada's Remembrance Day is Nov. 11) was ordered to remove this piece of "federalist propaganda" before he could enter the polling place.

Non-Canadians often have difficulty understanding what the separatist battle is about. Canada is a pleasant place to live, and French-Canadians do not look very much like an oppressed minority. The first French-Canadian prime minister was elected in 1896. Since 1968, Canada has been ruled by non-Quebec prime ministers for precisely 22 months. Quebec's political clout is equally disproportionate throughout the federal civil service. Three of the nine seats on Canada's Supreme Court are reserved for Quebeckers.

Economically, Quebec receives far more than it contributes to the Canadian Confederation. That is true both directly—through the government-to-government transfers known as "equalization" payments—and indirectly, via the federal government's unemployment insurance and astonishingly generous Canada Pension Plan. On a symbolic level Quebec is privileged as well: French is the sole official language in Quebec (with an 82 percent Francophone population), while neighboring Ontario (Francophone population 5 percent) earnestly prints its government documents—including driver's licenses—in both English and French.

Parizeau's outburst the night of the referendum answers the question. French-speaking Quebeckers voted for separation not because of any objective grievances against English Canada, but because they regard themselves as a nation and—rationally or irrationally—aspire to their own state.

Their nationalism isn't always attractive. It makes no room for English speakers, many of whom can trace their families' arrival to the 18th century, or for French-speaking non-white immigrants. And, it won't surprise you to hear, Quebec nationalism has long har-

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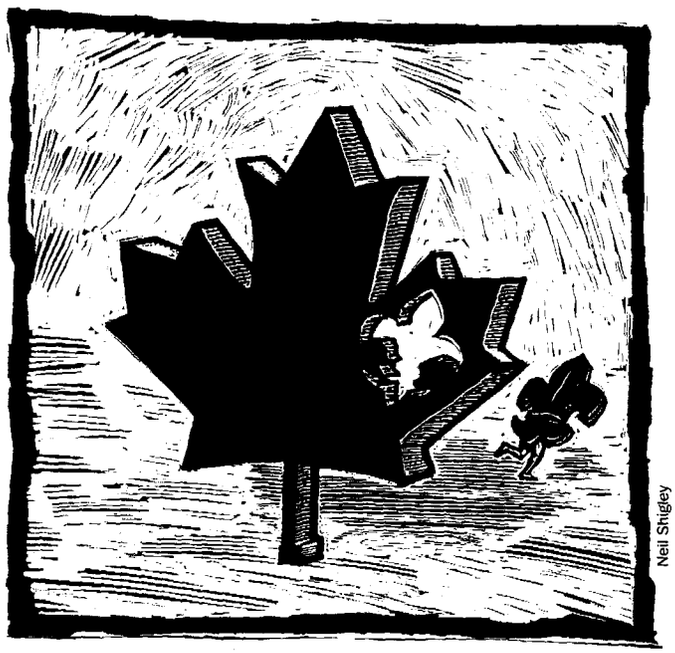
bored a special hatred for Jews. (Since the election of the first separatist government in 1976, more than 100,000 Jews have moved out of the province.) But that's all beside the point now. The next referendum could occur as soon as November 1996, and it seems probable that the next time the separatists will win.

The day after the referendum Parizeau announced that he would resign as premier. That opens the way to the province's premiership for Lucien Bouchard, leader of the separatist bloc in the federal House of Commons and the most popular figure in Quebec. Bouchard's ascendancy will create unsolvable political problems for the federal government and Prime Minister Jean Chrétien. Unlike Parizeau, whose resemblance to an old-fashioned Norman restaurateur perversely endeared him to English Canadians, Bouchard is a dark, Miltonic figure universally loathed in the rest of the country. English Canadian public opinion will not tolerate anything that might be construed as a concession to him. Nor will the prime minister—who has never been accused of excessive cleverness—find it easy to speak past Bouchard directly to wavering Quebec voters.


Neil Shigley

English-Canadian optimists can rattle off a list of reasons why they can hope that the separatist vote will dwindle over the next 12 months. It is true, for example, that many separatist voters have no idea what separatism will mean. In the referendum campaign, they were promised that the citizens of a "sovereign" Quebec would retain their Canadian passports and would continue to use the Canadian dollar as their legal tender. Opinion polls found that as many as one-third of all separatist voters imagined that Quebec would continue to send members of Parliament to Ottawa after it became "sovereign."

The optimists hope that with more information about the actual costs of separation, with a better federalist campaign than the lackluster performance mounted this time, and—finally—with another round of constitutional concessions from English Canada, a 1996 referendum could be stymied. These hopes are ill-founded. Quebec voters were abundantly informed of the true costs of separation—they chose to ignore them. Meanwhile, after 30 years of conciliation, English Canada's mood is hardening. There will be no deals.

So what should happen instead?

A tough-minded English Canada would act now to design a new federal union capable of surviving the departure of Quebec. That would entail:

(1) Immediately balancing the federal budget. This would end chronic deficits, proportionately double those of the United States, and reduce the vulnerability of Canada's currency and credit rating on international markets.

(2) Strengthening the economic union between the nine English-speaking provinces. Amazingly, Canada permits provincial governments to practice economic discrimination against out-of-province firms.

(3) Redirecting trade flows away from Quebec by entering into a closer economic union with the United States. Despite the North American Free Trade Agreement, Canada still transacts only a fraction of the business with the United States that it would in a borderless world. One recent study found that, adjusted for population, Quebec trades *20 times* as much with British Columbia as with California. A true North American common market would help insure English Canada against the mood swings of the Quebec electorate—and would benefit the United States by ensuring that its largest trading partner does not stumble into an unnecessary slump.

Foresight and American assistance could mitigate the economic costs of the fracture of Canada. But nothing can mitigate the political implication of a separatist victory: that not even tolerant Canada could make a binational, bilingual state work.

There is a warning here for American multiculturalists—and for American policy makers who want to send American troops to Bosnia to preserve in the bloodstained Balkans a type of polity that could not survive on the gentle banks of the St. Lawrence River. ♦

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Budget Hawk Flies Right

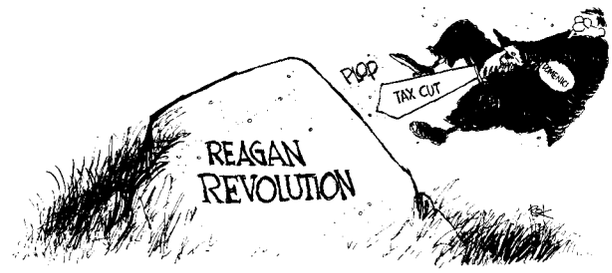
by Matthew Rees

Just how much does Pete Domenici, chairman of the Senate Budget Committee, care about a balanced budget? Following the committee's approval on a party-line vote to settle Washington's accounts by the year 2002, he solemnly called the vote "the culmination of my life of work." That may be only a slight exaggeration for this longtime deficit hawk, but the outcome of the October 23 vote was a reminder of Domenici's considerable skill, and success, in shepherding the legislation through a Senate laden with budgetary landmines. Domenici has emerged as one of the generals in the Republican effort to radically downsize the federal government and balance the budget in the process.

Nine months ago, few would have predicted Domenici's central role in devising his party's economic program. He has traditionally been eyed with suspicion, if not disdain, by conservatives after his work to scale back the Reagan tax cuts in 1981. This apostasy reared its head again in 1982 and 1990; he pushed for huge tax increases both years and solidified his image as an all pain-no gain Republican. Domenici wasted no time in resurrecting this image following the November elections: As Republicans prepared to name a new director for the Congressional Budget Office, the dour Domenici objected to the appointment of June O'Neill, a free-market economist supported by conservatives. He worried that her views would compromise the supposedly independent agency.

This heresy was small beer, however, compared with what Domenici was spouting in response to the House's tax-cutting Contract with America: "There is no commitment to any size tax-reduction plan in the Senate, and there is no consensus from what I can tell," he announced in early February. "We're clearly interested in what the House says and does, but everybody knows that senators are very concerned about the deficit." Nor was Domenici fully supportive of the House goal to balance the budget over seven years.

But his reluctance waned when he recognized there had been a genuine change in climate among Senate Republicans since his previous tenure as chairman of the Budget Committee in the 1980s. While many of his GOP colleagues had always supported tax cuts, the willingness to make spending cuts was now widespread. This was brought home to Domenici in the proposals offered by working groups he had formed upon assuming the chairmanship of the Budget Committee in January. The working groups, which looked at domestic discretionary spending, entitlements, and privatization, came up with surprisingly bold proposals, which ranged from selling off the federal student-loan agency to including medical savings accounts in Medicare reform. The impact of these proposals was clear: If there was real enthusiasm for spending cuts among Republicans, then Domenici could swallow hard and support tax cuts.



Chip Bok

Domenici's search for a way to twin spending cuts with tax relief was greatly facilitated by an obscure April report from the CBO, which certified that a balanced budget would yield a $170 billion dividend to the federal government (primarily as a result of reduced interest payments on the debt and increased economic growth). The report, and earlier Budget Committee testimony by then-CBO director Robert Reischauer, received no press coverage at the time but would prove to be one of the most critical elements of the GOP tax-cut plan. Domenici pledged to devote the $170 billion to tax cuts, which enabled him to round up Republican budget support from fellow deficit hawks.

Domenici's newfound willingness to play ball with his GOP colleagues was underscored by his acceptance in mid-June of an increase in the tax cut to $245 billion, the compromise number agreed to by House and Senate conferees. And when all 54 Republican senators voted for the House-Senate budget resolution on June 29, it was a testament to Domenici's skill in bringing the GOP's diverse coalitions together under one package. Domenici's "masterful" procedural work—his use of the dividend in particular—was what made it possible for the resolution to pass, says Stan Collender, a budget expert at Price Waterhouse in Washington.

Domenici's close relationship with Senate Majori-

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ty Leader Bob Dole has played no small part in guaranteeing that tax cuts were included in the bill. The pair have been ideological and temperamental soul mates during their almost 23 years together in the Senate, harboring chummy relations with many of their Democratic colleagues.

And despite their one-time rivalry (Dole defeated him in 1984 to become majority leader), Domenici was an early supporter of Dole's presidential ambitions for 1996 and has understood that those ambitions would be thwarted if tax cuts stalled in the Dole-led Senate. Dole did have to do some arm twisting to get Domenici to agree to increasing the tax cut package to $245 billion, but Domenici's legendary obstinacy never kicked in.

Will Domenici's looming budget victory cement his links with conservatives? Probably not. He's still a moderate at heart, as seen earlier this year in his refusal to approve tough provisions in the welfare reform legislation, and in his relentless work to preserve the Legal Services Corporation. Conservatives have little faith that Domenici has undergone an ideological transformation. Yet most of rhetoric these days from the right is grudgingly pro-Pete: "Domenici does need to be given credit for getting the budget this far," says Scott Hodge, a budget expert at the Heritage Foundation. The irony in this is that the man derided by the editorial page of the *Wall Street Journal* in April 1981 as "John Maynard Domenici" for his opposition to Reaganomics has helped craft and win approval of a budget proposal that would have been unimaginable during the Reagan years. ♦

The President Is Calling

by Max Boot

It was 2 a.m., and the phone call woke me up. It was a female voice: "Please hold for the president of the United States." Then a deep male rumble.

"Max, Max, are ya awake?"

"Yes, Mr. President."

"I just had a little free time after . . . well, I can't tell you that. But let's just say Hillary doesn't know where I am. I wanted to get a few things off my chest. I really enjoyed that conversation I had with Ben Wattenberg."

"Ben did too, Mr. President."

"Well, you know I've admitted to making mistakes over taxes and medical reform, but you know those weren't the first mistakes I've made. Far from it. There were plenty of other doozies."

"Such as?"

"Well, remember when I was on that MTV program and told the kids I wore briefs, not boxers? That was a huge mistake. I lied! I'm actually a boxer man. I wish I'd leveled with the American public."

"That's horrible."

"Yeah, but it gets worse. The first mistake I made? Marrying Hillary. Boy, have I lived to regret that. The public hates her! But rest assured, if I get reelected, the first day of my second term I'll dump Hillary and marry Colin Powell. Dick Morris says the numbers on that are sky high."

"Wow! Can I print that, Mr. President?"

"Absolutely not, Max. I'm just sharing a few thoughts with a good friend of mine. Here's another thought: Al Gore. He's a real dweeb, isn't he? Don't know why I picked him. I hate having to pal around with him and that fat wife of his. Pretending I actually like him—man! He's going, too, soon as I win a second term. His job might make a nice consolation prize for Hillary, don't you think?

"Hmmm. Anything else you regret?"

"Yeah, the Haitian invasion."

"But that was your only foreign policy success, Mr. President."

"Yeah, but it could have gone wrong, and then where would I be? I didn't realize the risks I was running. Wish we'd never gone in there. The Republicans were right—too much danger, not enough American interest there. Know what else the Republicans were right about?"

"What?"

"Americorps. I know it's my only domestic initiative that's been implemented, but why did I bother? That's what I keep asking myself every time I have to visit a camp of these spoiled kids tooling around doing ridiculous non-work. Big, big mistake. All those kids will be on the unemployment line on January 21, 1997, if not sooner."

"Wow. that's quite an admission, Mr. President."

"Oh yeah? That's nothing compared to what I told Harry Thomason about the White House travel office before . . . ."

The line went dead.

Max Boot is an assistant features editor on the** Wall Street Journal**'s op-ed page.

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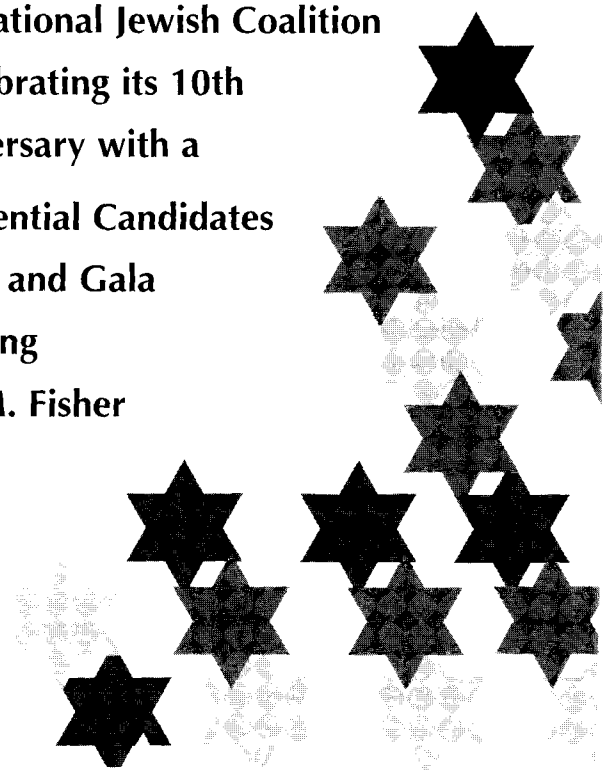

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GIULIANI: START SPREADING THE NEWS

By David Brooks

It takes a rude man to make a civil society. New York Mayor Rudy Giuliani created a diplomatic contretemps late last month when he threw Yasser Arafat out of a concert the mayor was hosting to celebrate the 50th anniversary of the United Nations. For days, Giuliani had been saying that Arafat and Fidel Castro were not welcome at the event. But just before going on stage at Avery Fisher Hall to make his remarks, the mayor was told that the PLO delegation had been seated two boxes down from his chief of staff, Randy Mastro.

In a small backstage room, Giuliani sketched out a few options with his aides and decided within seconds to boot Arafat. U.N. official Gillian Sorensen (wife of Ted) protested it would be awfully embarrassing. "Enough!" Giuliani snapped when she started repeating herself. He had already dispatched Mastro to tell Arafat to leave. The PLO leader sat silently as Mastro told him he was not welcome, but a PLO aide was incredulous. "Do you know who you are talking to?" he asked. Several minutes later the PLO delegation decamped.

The State Department, the White House, the New York media, and former mayors Ed Koch and David Dinkins protested. Koch called Giuliani a "horse's ass" who had disgraced the city. The *New York Times* suggested that Giuliani was crassly trying to curry favor with the Jewish vote.

The *Times* was wrong. Once Giuliani had decided not to invite Arafat to the concert, he could not have backed down. It's not in his nature. Giuliani sees himself as someone who never backs down, and he's proud of it.

In the two years since he was elected mayor of New York, Rudolph Giuliani has waged a relentless pressure campaign against those who violate his sense of decency. He has forced the Mafia from the Fulton Fish Market, which it had dominated for six decades. Last month he oversaw passage of an anti-pornography bill that largely pushed porn merchants out of Times Square and residential neighborhoods. He removed the squeegee men, who used to menace drivers trapped at red lights under the guise of washing their windows. He has expanded a workfare program so that now he has 24,000 people cleaning up parks, schools, and other public spaces.

The results have been dramatic. The city's crime rate fell an astonishing 32 percent in 1994, with robbery down 22 percent. And in the first nine months of this year the murder rate declined an additional 30 percent. New York is now the safest city in America with a population over 1 million. The streets and parks are cleaner. Aggressive panhandling has been curtailed. The homeless now tend to spend their days sitting on park benches, whereas before they were likely to be found sleeping on the sidewalk. The Giuliani administration and the police department under Commissioner William Bratton have taken huge strides to make New York a more civil place.

"Community" and "civil society" are the hottest social-science topics around Washington, inside think tanks, and on the nation's campuses. In these quarters, the debate has focused on moral breakdown, illegitimacy, the decline of trust, and other deep social trends. Social critics talk about the need for "mediating institutions" and the corrosive effects of rap music, talk radio, and trash TV.

Giuliani's approach to civil society has none of this. He ignores the culture war. And his success in New York suggests that maybe you don't need a moral reawakening or a religious revival to see remarkable improvements in civil society. Maybe you can make a startling difference merely by instituting a few mundane acts of good government that restore civic authority over the streets. While it's interesting to wonder if Americans bowl alone, perhaps the more immediate task is to make sure decent people feel comfortable hanging outside the bowling alley late into the night.

The Giuliani approach is based on suppression of

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the anti-social. It's a style of government concerned with the traditional subjects of political philosophy: power, force, and authority. And individualism, in the form of a political leader with few ties to established parties or interests.

For decades, cities were governed by political machines. The corruption they engendered led to the professionalization of city management, with urban planners dominant from the mid-1940s onward. Now prosecutors hold sway. Four of the best mayors in the country—Ed Rendell of Philadelphia, Richard Daley of Chicago, Stephen Goldsmith of Indianapolis, and Giuliani—made their bones as crime busters. And Giuliani is the epitome of the prosecutorial type.

Sean Delonas

Giuliani says that the most important thing he learned as a prosecutor was the ability to make decisions quickly. Another way of putting it is that he became comfortable with power. To be a U.S. attorney for the Southern District of New York, as he was from 1983 to 1989, is to come as close to possessing absolute power as a democratic system allows. You have the power to ruin people merely by investigating them. You have control over one of the most rigorously selected teams of prosecutors in the country. You are barely subjected to press oversight (unless you court it), and if someone leaks one of your internal documents about an ongoing investigation, he is breaking the law.

Giuliani has an evident taste for power, and he uses it with gusto—a gusto that, pointed in the wrong direction, can do real harm. He directed law-enforcement officials to march into Kidder, Peabody and other brokerage firms, handcuff alleged insider traders in front of their peers, and cart them off to jail. He seemed unfazed when the charges were later dropped.

Giuliani's actions as mayor have been variations on a theme: Give *me* the ball, let *me* control it, hold *me* responsible. He has waged a relentless and often messy campaign to exercise more power over the city. And he has used the power he has accumulated to stomp on the forces that threaten the social fabric. It's been a two-front war. He has worked with Commissioner Bratton to establish authority over the streets. And, in a lonely battle, he is fighting to exert authority over a municipal system that in the course of 50 years had become bloated, unfocused, and decrepit.

To establish authority over the streets, Giuliani and Bratton drew on two social science theories. First, they cite Daniel Patrick Moynihan's observation that America has been defining deviancy down, lowering its standards of tolerable public activity. And they are indebted to the broken-window theory developed by James Q. Wilson and George Kelling—that if a broken window goes unfixed, people feel free to vandalize the whole building.

While some argued that the police should focus on major crimes, Giuliani saw the small eyesores—graffiti on a train, garbage on an open plot of land, or aggressive panhandling on a thoroughfare—as evidence of government weakness. "When people see these things, and see that they don't get fixed," he says, "then over a period of time citizens get the impression that no one's in charge. That undermines the social fabric."

One of Giuliani's first acts as mayor was to go after

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the squeegee men. In fact, there were only about 190 of them, and they were not violent, but they loomed large in the psychology of the city. Their elimination has become the most discussed symbol of New York's regeneration.

He went after the Mafia even though its control of the Fulton Fish Market doesn't have much effect on New Yorkers. The market is a series of buildings in lower Manhattan, at which more than $1 billion worth of fish is sold each year to metropolitan-area restaurants and wholesalers. The Genovese family's vigorish made fish slightly more expensive in restaurants, but many of the firms that bought and sold within the market were more afraid of the anti-Mafia disruption than upset by the costs of continued mob control. Nonetheless, the Mafia domination of the fish market was an affront to civic authority. When the market's key building was destroyed in an arson fire two days after the Giuliani initiative, the mayor redoubled his efforts. This was, after all, a direct challenge to his power and could not go unanswered.

Within the police department, precinct commanders now have the power to go after prostitution, public urination, the sale of marijuana, the sale of alcohol to minors, and cars that use massive stereo equipment to disturb the peace. Statistics are now updated daily so that precinct commanders can see which blocks are emerging as crime zones. People who don't show up for their court dates are more likely to be tracked down.

These campaigns against the smaller violations have had an effect on major crime. Eighth Street in Greenwich Village had become a sleazy gathering point. Stores were beginning to close early. Now a walk down that street is much less menacing.

New York is benefiting from a nationwide drop in crime. But the city's gains are due only partly to demographics. Its declines have been up to six times greater than the national average.

The mayor's policies to improve the quality of life have been remarkably free of controversy. Indeed, the entire New York experience might suggest that the nation isn't in such advanced moral decay. People may watch trash TV in the daytime with whatever fantasy part of the brain such activity occupies, but in real life, even New Yorkers do not have an anything-goes ethos. On the liberal Upper West Side of Manhattan, and in Greenwich Village, people support the Giuliani/Bratton measures. I used to know a woman who lived off Tompkins Square Park who would complain bitterly when the homeless defecated in her vestibule. But when the police came in to remove the homeless back in 1989, she joined a riot against the cops, energized by ideological zeal. People don't do that anymore.

These days nobody makes a fuss when Bratton tells panhandlers to "get off drugs, get off the booze, get off your ass, and get a job." On a call-in show late last month, a student at one of the city colleges complained to Giuliani about a small tuition hike. Giuliani told her to get part-time work and to stop complaining because average taxpayers were massively subsidizing her education. There were no irate calls in protest.

The anti-pornography measure that passed last month succeeded after years of failed attempts. Ed Koch and other experienced city fathers were deeply skeptical of its chances. But, except from the pornographers themselves, there was little opposition. A few leftists still equate efforts to squash bestiality magazines today with philistine efforts to suppress *Ulysses* 60 years ago. But the measure, shepherded through the laborious regulatory process by City Planning Chairman Joseph B. Rose, passed easily through the Democratic city council to city-wide applause.

On pornography, graffiti, homelessness, and a range of other issues, the consensus has shifted away from self-expression to the imposition of civic order. Urban policy in New York merely needed to catch up with cultural gains. Giuliani is no philosopher king who inspires a moral revival. He's simply bullheaded enough to bust through the political inertia and bring policy up to date with the social consensus. Democrats are correct to point out that many of the policing and workfare measures that Giuliani celebrates were actually started, in less ambitious form, in the Dinkins administration.

Meanwhile, Giuliani's bid to gain greater control over city government itself has been even more aggressive, and far messier. The administration's self-image is of a band of courageous fighters taking on a political establishment that has been entrenched since the New Deal. "New York needed somebody who didn't come out of what was a pretty rotten political system," Giuliani says of his 1993 victory in the mayor's race, when he became the first Republican in Gracie Mansion since John Lindsay departed two decades before.

When Giuliani talks about the New York City government, he describes a system of mutual indulgences in which each interest will fiercely defend its accumulated privileges: a fire department that will organize a hostile media campaign to cow a reformist fire commissioner; a police union that will use its pull in Albany to thwart efficiency reform; an educational system that is rotten through and through. (And the police and fire departments are Giuliani's *friends.*)

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Many of his victories have been gained through sheer force of will. He pushed through a merger of the transit and housing police with the NYPD, a reform that had been needlessly foiled for decades. He largely prevailed in bloody fights with the city council, reining in a $2.3 billion deficit and reducing the city workforce by 15,000 jobs.

It's been a series of battles, feuds, and conflicts. And since nothing he does can go unaccompanied by a scrap, he's even feuded for credit with police commissioner Bratton; Ed Koch predicts that the relationship between the two is so poisoned that Bratton will quit within a year.

Giuliani's most long-standing struggle has been to gain control of the city's dysfunctional education system. He struggled bitterly with his own schools chancellor, Raymond Cortines. Giuliani hired Cortines, who is socially conservative, but soon became convinced that Cortines had allowed himself to be rolled by those under his command. Giuliani criticized him and pressured him to stand up for himself, calling Cortines "precious" and "a little victim." Cortines is a thoughtful man willing to admit his own vulnerabilities. He earned immense sympathy in Manhattan, including an admiring profile in the *New Yorker*, but clearly he had no place in Giuliani's New York. Finally Cortines resigned, deciding that the assault on his dignity had gone far enough.

Giuliani's goal has been to abolish the independent Board of Education and bring the schools more directly under his authority. It is typical of his brawls that even amidst the bad blood, he has made progress, so that now most political leaders have adopted versions of his view. It's worth dwelling on his attitude toward the lone holdout, State Assembly Speaker Sheldon Silver, because it reveals how Giuliani plots strategy in these fights.

Silver recently sponsored an education summit, and Giuliani was subjected to oceanic criticism when he refused to go.

"Does it make sense to negotiate with [Silver] or does it make sense to wait until he's in an area to make reasonable compromise?" Giuliani asks. "He's not ready at this point. If I begin negotiating with him, I take the pressure off. It will appear as if he's trying to make changes, and we'll be in a semantic debate about whether he is or isn't. That's what he wants."

Giuliani has raked Silver over the coals at press conferences. "He needs to be focused on or he's never going to change . . . . And we've surrounded him pretty effectively. Four out of the five major players support my proposal to do away with the board. I think we're going to get it."

Giuliani does not move ahead by cooperation. He moves ahead by pressure and confrontation, especially since he sees himself as an outsider elected to revolutionize the system. And he posits that the important thing is not to be liked, but to hold power, so that your opponents have to deal with you whether they want to or not. "We had tremendous battles over the first budget," he says. "The *Times* wrote that I had totally ruined my ability to work with the city council. I told them at the time their view was a joke. It was an overreaction to today's events. You got to have a little more wisdom. You got to see a few days down the line."

Giuliani's method is wildly unpopular with the political class. He and the press loathe each other. The press is so put off by the months of bad blood his feuds create, that it neglects the progress that emerges when Giuliani triumphs. A lot of the liberal distaste for him is aesthetic.

In conversation with journalists, politicos, and other observers, especially sympathetic ones, one is regaled with stories of Giuliani's indulging his love of conflict, attacking good people, savaging those who deserve better. "If you only have a hammer, then every problem looks like a nail," Manhattan's leftist borough president Ruth Messinger says, condemning Giuliani's style. It's hard to talk about Giuliani without hearing the phrase "control freak."

The problem with Giuliani's Manhattan critics is that they want somebody with the *Crossfire* virility to clean up their streets but also with the *MacNeil-Lehrer* manners they admire. In some ideal world such a person might exist, but in reality, most people have the faults of their virtues. And maybe like a fastball pitcher, Giuliani is more fearsome and effective for being occasionally wild.

In the days following the Arafat episode, Giuliani's love of combat was on ample display. He was under attack from all quarters of the globe, but as he rode in his white van from event to event, he was energized and triumphant. He answered dozens of hostile questions from reporters and was excited when his communications director let him know, amidst a visit to a Manhattan primary school, that she'd received a call from CBS's *Face the Nation*. (He ended up going on the ABC's *Brinkley* show instead.)

The only critic who got under his skin was Ed Koch. "Koch is such a fake," Giuliani muttered to himself in the elevator on the way to a noon TV interview. He was delighted when a staffer found a 1988

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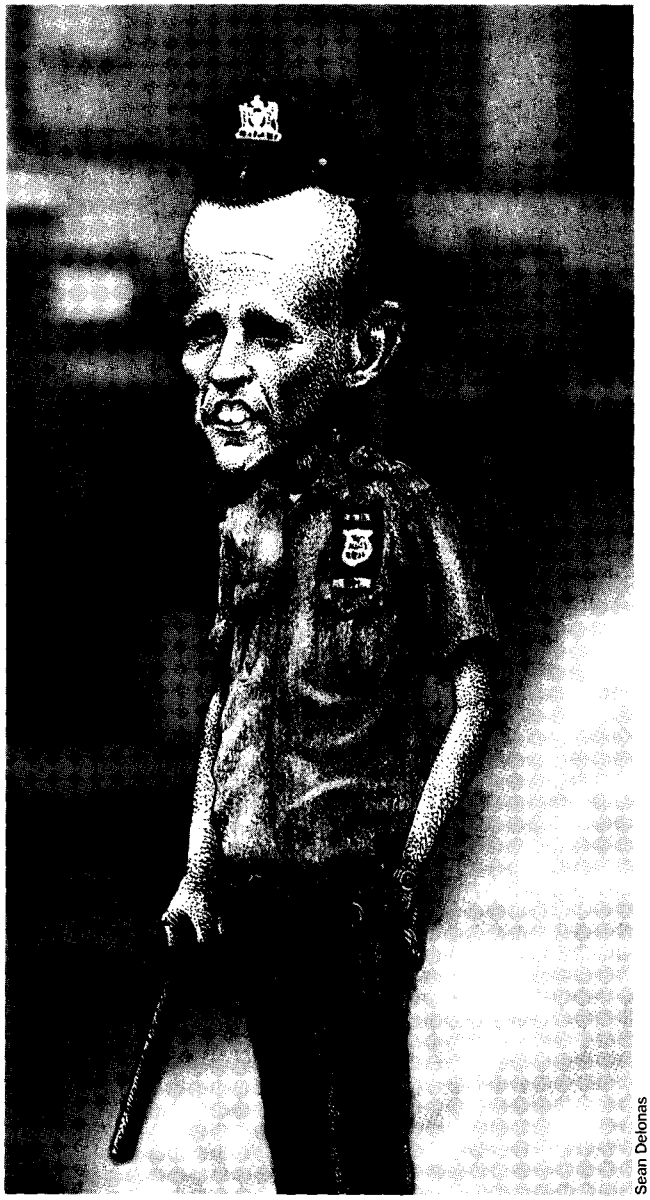
quotation in which Koch had branded Arafat a "murderer," and he used the quotation to justify his move all day. In the evening, in the van on the way to the opening of the Broadway musical *Victor/Victoria*, he came back to Koch again. "I made exactly the same decision Ed Koch would have made if he were still sitting where I'm sitting," he said. "He wants to be a critic because he can get more attention."

Addressing the opening night Broadway audience, he scanned the crowd and joked, "I guess you can all stay."

Giuliani is an anti-Clinton. He makes decisions quickly. Once he starts something, he finishes it. He knows who he is. He doesn't feel the need to be loved. But he is not lovable even when it might help him. He drives away those who would be allies most of the time.

He's much funnier than you might expect, but he's not a storyteller or a showman. At the primary school just after the Arafat incident, he greeted an assembly of kids. Amid a sea of squirming second and third graders, he went on about the job-creating potential of the private sector and his efforts to make city contracting more efficient.

A loner, Giuliani will probably not leave a broad reform movement behind when his time in office expires. An attacker of a bad system, he has not been a dramatic policy innovator. Even sympathetic observers say that his economic and regulatory reforms have been modest.



Sean Delonas

But he is a remarkably successful mayor and a new kind of Republican. He takes liberal positions on abortion and gay rights. He endorsed the losing Democrat, Mario Cuomo, over the winning Republican, George Pataki, in the 1994 gubernatorial election. But he exemplifies the only style of conservatism that can survive right now in America's big cities. To call him a Republican moderate, as if he were Sen. John Chafee, is to miss the point. He is far from moderate in his attitude toward civil society or the political system he inherited.

His success might give conservatives pause about their insistence on supporting candidates only if they rigorously adhere to a set of conservative policy positions. In the 1993 mayor's race, a few nationally known conservatives campaigned for George Marlin, running on the Conservative party line. That was incredibly foolish. Marlin got 1 percent of the vote. Giuliani won by a mere 2.5 percentage points over Dinkins. If Marlin had made a stronger showing, Giuliani would not be mayor today and the city would be infinitely worse off.

Giuliani is also a bracing presence in a country that is much concerned with community and civil society. The national discussion about community is often warm, fuzzy, and pointless.

Giuliani reminds us that communities are made possible by leaders who can maintain authority and, in this way, control streets and uphold community standards of decency. Making tough speeches in the culture war is fine, but there's greater toughness in a politician who, while lacking ideological rigor, takes on the disasters of the last 50 years of urban policy, and prevails more often than anyone could have imagined in his wildest dreams. ♦

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Banzhaf's Game: How To Give Lawyers A Bad Name

By Tucker Carlson

In June 1993, the *Washington Post* ran a story about a ballroom-dancing school for children called Mrs. Simpson's Dance Class. The article alleged that Mrs. Simpson's, by its invitation-only enrollment policy, had denied proportionally correct numbers of black students the opportunity to join Washington's most prestigious dance lessons. Whether intentionally or not, the story concluded, Mrs. Simpson's had hurt the feelings of a lot of fourth-graders and left their parents feeling awkward.

It all might have ended there, except that a Washington-based law professor named John Banzhaf III happened to read the article. Within days, Banzhaf had filed a discrimination complaint against Mrs. Simpson's with the city's Department of Human Rights and Minority Business Development. The dance class, said Banzhaf, is "training future leaders of our society, so the impact of teaching them that discrimination against race and religion is okay is far more serious than a situation involving people who would not have important decision-making roles in society."

A bewildered Mrs. Simpson hired a lawyer. Banzhaf countered with a press conference. Before long, the matter was settled: Though it continued to "vigorously deny" charges of discrimination, Mrs. Simpson's Dance Class was forced to accept an affirmative action program, complete with diversity goals, annual compliance statements, and an independent monitoring body composed of "at least three African-Americans" to hurry along the inclusion process.

Two years later, Banzhaf remembers the event with apparent fondness. "We got a nice settlement from them," he says. And how is Mrs. Simpson's today? Inclusive? Diverse? A glorious patchwork of multi-hued boxsteppers? Banzhaf pauses, stumped. "It's not one of those things I have followed up, so I couldn't tell you."

Not that it really matters. For John Banzhaf, whether or not a few more black kids learn the fox-trot was hardly the point of the exercise. The point was publicity—getting it, using it. And by that measure, hauling Mrs. Simpson before a human rights commission was time well spent.

In a city teeming with self-promoters, Banzhaf is the Edmund Hillary of publicity mongering. For 30 years, Banzhaf has been issuing statements, holding press conferences, relentlessly flogging the controversy du jour. Along the way, he has taken on dozens of Mrs. Simpsons—murderous corporations, sexist restaurants, greedy dry cleaners. But don't be fooled. There is no ideology at work here. In John Banzhaf's Crusade for a Better America, there is only one cause worth fighting for: seeing your name in print.

In his office on H Street, across from the law school where he teaches several days a week, Banzhaf reclines behind a desk cluttered with press clippings, videos of his television appearances, and copies of his resume, a four-page, 31-point list of "Major Professional Accomplishments." Now in his mid-50s, Banzhaf is surrounded by photographs taken at various times during his long career. But this is no ordinary Wall of Ego, for the the pictures are almost exclusively of him alone. No grip-and-grins with senators or presidents. No family shots. Just Banzhaf, hands placed regally on a stack of legal briefs, or staring off in a dramatic warrior pose. Banzhaf becomes animated as he explains the difference between himself and his fellow George Washington University professors across the way. "I have called my colleagues myopic legal eunuchs for refusing to test their ideas where they can actually have value," he says. "My colleagues will not go and testify on Capitol Hill. They'd rather write these long, introspective bullshit law review articles. Instead of writing law review articles, I will go out and bring legal actions."

Banzhaf's first legal action of note came in the late-1960s, when, as a young Columbia Law graduate, he used the FCC's "fairness doctrine" to force television stations to run anti-smoking announcements along with their cigarette commercials. It was a heady victory for a 26-year-old son of a fireman from the Bronx. Though he admits he had no special grudge against smokers—smoking was "not even on my list" of con-

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cerns, he says—Banzhaf had tasted notoriety and found it ambrosial.

He promptly quit his job in Manhattan, moved to Washington and started Action on Smoking and Health, an anti-tobacco group. Soon, ASH was keeping him in the headlines with its intemperate press releases, which Banzhaf delivered by hand to local news agencies. "Two hundred years ago brave men and women pledged their lives, their fortunes and their sacred honors to win their freedom," began a typical anti-cigarette missive from 1971. "What will you pledge to prevent the enslavement and death of millions of children, and to defend your right to breathe unpolluted air?"

(ASH was also paying the bills. By 1994, the nonprofit group had an annual operating budget of more than $1.1 million, $261,000 of which went to management salaries. Banzhaf refuses to say how much he takes home, though he does concede the number "probably is" between $100,000 and $200,000.)

Bill Garner

His reputation as a legal bomb-thrower established, Banzhaf joined the faculty at GWU's National Law Center, where he began teaching a course called Legal Activism. (Banzhaf later boasted he had wanted to name it "Sue the Bastards" but was prevented by square university administrators.) Described in the school catalog as instruction in "legal judo" and "guerrilla law," the course gave students academic credit for bringing legal action against people or establishments they believed were engaging in unfair practices. It also taught them how to handle the media, when to talk to reporters, how to hold a press conference. "We didn't have a concept of public interest law as we have today," he says. "Basically, I started that."

The class soon developed a mystique on campus. The professor took to wearing a Superman T-shirt. His car sported a vanity plate that read, "SUE BAS."

Together with his students—dubbed "Banzhaf's Bandits"—Banzhaf began filing lawsuits and complaints against dozens of businesses in the city, mostly on grounds of discrimination. Barbers who billed more for women's haircuts were charged with sexism. Rental-car companies that would not do business with drivers under the age of 25 got slapped with suits for ageism.

For Banzhaf, teaching was one more chance to increase his fame, to pass it on to future generations. "I've turned out more than 120 students, and they're spread around," he explained to Joe Goulden, author of *The Superlawyers*, in 1972. "One day something is going to bug each one of these guys, and he is going to remember what he did in law school. You get a couple of hundred lawyers doing this, and you are going to have a legal revolution in this country."

The kids loved it. As one student explained to *Washington Lawyer*, "I really like this course because it allows you to act like a lawyer before you actually become one."

Kirk Rankin, a former George Washington law student who took Banzhaf's course in 1992, remembers the thrill of finding a suitable target for a lawsuit: "In the first class we sat around in this big bull session and figured out what ideas to pursue. And someone said, 'What about this idea that there ought to be more johns for females at sporting events?' Banzhaf just beamed. He said, 'As far as I know, young lady, that's my idea. I *created* the potty parity issue.' He was just ecstatic. He was ready to fight for potty parity." Rankin is now a personal-injury lawyer.

Banzhaf's efforts didn't stop at questions of toilet fairness. In the early 1980s, the professor and his students went after a number of Washington restaurants on the grounds that requiring men to wear jackets was discriminatory. (The rule did not apply to women.) At a press conference, Banzhaf warned other, not-yet-sued Washington restaurants "not to continue their [dress code] policy or you may be the defendants in the next lawsuit." The case later was thrown out by a District Court judge, who described the action as "frivolous and trivial."

Other suits were taken more seriously. In 1989, Banzhaf discovered that dry-cleaning businesses routinely charged more to wash women's shirts than men's. Although dry cleaners countered that women's clothes were more expensive to wash, Banzhaf and his students pressed on, filing complaints against every laundry in Washington, most owned by immigrant Koreans. Ultimately, the businesses were forced to eat the losses and change their billing practices. "It's an

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unprecedented agreement to make Washington the first major city where there will not be any discrimination from dry cleaners regarding shirts," he exulted. Before it was over, Banzhaf says today, the Korean dry cleaners' association "went through three or four high-powered law firms" defending itself.

In 1993, still giddy from their war against dry cleaners, Banzhaf and three of his students filed complaints against Washington night clubs that held "Ladies' Nights," when women were given breaks on drinks or let in free on slow nights. Again, Banzhaf deemed the practice discriminatory. "You won't see signs advertising Black Night or Wheelchair Night or Catholic Night," he pointed out to the *Charleston Gazette*, "but for some reason Ladies' Night is OK." A local weekly that had dared run ads from bars with ladies' nights also found itself hit with a Banzhaf suit. The manager of one targeted nightclub seemed confused by the fuss. "This is our way of honoring" women, said the man, an African immigrant. "Maybe I need to learn more about sexism."

When he wasn't using his students to bully the locals, Banzhaf spent his time bullying them on his own. There were plenty of targets. "Every time I'm reading a newspaper," he told the Washington *City Paper*, "every time I'm listening to a news broadcast, somewhere in the back of my mind there's always a little thing saying, 'Is there some way you could do something here? Is there some legal opportunity?'"

Indeed there was. When he found that the city's all-male Cosmos Club was resisting a push to make it admit women, Banzhaf joined the fray, filing a discrimination complaint under the District's Human Rights Act and forcing the organization to change its policy. When he read in a *Washington Post* column that Dulles airport did not provide baggage carts for passengers in its domestic terminal (the airport said it did not have space for a cart dispenser), he filed a complaint under the Americans with Disabilities Act. He then sent out at least three press releases trumpeting his attack on the airport. And so on.

Meanwhile, Banzhaf's fame grew, as he appeared on countless television shows to talk about the dangers of cigarette smoking and related topics. In one notorious incident, Banzhaf debated professor Ernest van den Haag on the CBS news program *Nightwatch*. When van den Haag lit a cigar to illustrate a point about smoking, Banzhaf tossed a glass of water on him, prompting an on-air melee. Later, in an appearance on the *Morton Downey Show*, Banzhaf bragged about assaulting the elderly van den Haag: "Mort, I threw water on him, and he didn't have the guts to sue me." It was no surprise when Banzhaf made *Washingtonian* magazine's list of 1993's 25 Most Annoying People.

None of his grandstanding earned Banzhaf the affection of university administrators, a majority of whom voted to deny him tenure on his first attempt in the early-1970s. His persistent championing of unseemly causes on campus turned heads as well. Banzhaf, who takes a special interest in nudism and has done legal work in his spare time for a nudist colony in Maryland, wrote a number of opinion pieces for the student newspaper in which he defended pornography against the assaults of feminist and religious groups. Identified in his op-eds as "the director of the Foundation for Unrestricted Carnal Knowledge," Banzhaf treated readers to an explanation of "the swinging philosophy," as well as a detailed critique of stag films. "Most of the female stars of porno flicks are known and portrayed as women with lusty appetites and prodigious capacity to perform," he wrote in one piece, arguing that X-rated movies do not degrade women. By contrast, "Virtually every prostitute can tell you about male customers who pay her to urinate and or defecate on them or who wish to be paddled or disciplined." Don't believe it? Doubters, advised Banzhaf, should "visit any of the city's X-rated movie theaters or porno book stores and observe with an open mind."

All this should have been an obvious tip to reporters that he was not an entirely legitimate source for news stories. In fact, the opposite seemed to be true: The more press releases Banzhaf sent out—a computer in his office is programmed with the fax numbers of 90 news organizations—the more fields in which he claimed expertise, the more his name ended up in print. Over the years, Banzhaf has made it into hundreds and hundreds of news stories, dozens of them in the *New York Times* alone.

Plug Banzhaf's name into the Nexis electronic database and wisps of smoke begin to rise from the terminal—the system can barely cope with the enormity of the task. His name is everywhere: In the Memphis *Commercial Appeal* on Shannon Faulkner's arrival at the Citadel; in the *Detroit News* on race-based congressional districts; in the *Anchorage Daily News* on the conduct of the FBI in the 1960s; in the *Atlanta Journal and Constitution* on Clinton's latest Supreme Court nominee; in the San Diego *Union-Tribune* on the Reginald Denny beating trial; on the Gannett News Service wire on Paula Jones's anti-Clinton accusations; in the *Washington Times* on government radiation experiments.

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In 1992 alone, Banzhaf explained Iran-Contra to the St. Louis *Post-Dispatch*; weighed in on cult deprogramming in the *Chicago Tribune*; talked with the Gannett News Service about Ross Perot's bid for president; held a news conference about protecting the homeless in Washington, D.C.; made his debut in *Modern Brewery Age* on the topic of alcohol poisoning; held forth on the House bank scandal in *Roll Call*; talked with *USA Today* about the Noriega trial; and appeared on *Sonya Live* to share his expertise on the subject of child custody cases.

In every appearance, from the *Fresno Bee* to the *Dallas Morning News*, Banzhaf played the expert, on subjects as varied as they are current: Waco. Oklahoma City. Anita Hill. Ollie North. Marion Barry. William Kennedy Smith. In virtually each case, Banzhaf was contacted by reporters after issuing a press release offering his take as a freelance savant. Shortly after the verdict in the O.J. Simpson trial, for instance, Banzhaf sent out press releases touting his expertise on the subject of jury nullification. A number of papers responded. Banzhaf quickly found his name in the *Virginian-Pilot*, the *Tampa Tribune*, the Albany *Times-Union*, and the *Post and Courier* in Charleston, South Carolina, among others.

No news outlet has been more obliging to the publicity-hungry law professor than *USA Today*. Between 1990 and 1994, the paper referred to Banzhaf in an average of 11 different stories a year. On October 15, 1993, Banzhaf hit pay dirt, getting his name into two separate articles on two different subjects—the Reginald Denny trial and cigarette smoking. For the professor, the almost-hat trick was old hat—he'd done the same thing in the same paper four years before. (1989 was a good year for Banzhaf generally; he was quoted in 23 different stories in *USA Today*.)

Much of *USA Today*'s comprehensive coverage of all things Banzhaf can be traced back to a single reporter named Sam Meddis. Between 1989 and the middle of 1992, Meddis quoted Banzhaf in 19 stories on at least seven different topics. "When you're on deadline," explains Meddis, you look for people who are "quotable" and who return phone calls. Those kind of people, Meddis says, "you call back again. You don't do it consciously."

All the media attention has been good for Banzhaf's stock. Earlier this year, Al Gore and Donna Shalala invited him to debrief them on the subject of FDA regulation of tobacco. "I recognize that publicity is a very valuable tool," says Banzhaf, reflecting on his success. "In many cases, the publicity is as important as the legal action itself. It means that when I make a threat, it's more likely to be taken seriously."

Kirk Rankin remembers his former professor lecturing the class frequently on the value of notoriety. "He said public interest law has its own rewards. The image he used, at least three or four times, was that getting your name and picture in the paper compensates for not having the big, plush corner office and the high-figure income," Rankin recalls. "But he missed the point: If you're not into publicity, who cares if you get your name in the paper all the time?"

True—if you're not into publicity, that is. ♦

Messages from Moscow: What the Secret Cables Say

By John E. Haynes and Harvey Klehr

The defining characteristic of post-World War II American life was an irrational obsession with internal Communist subversion—or so many academic historians say. The newly proposed National Standards for United States History suggest that public concern about Soviet espionage or covert Communist political influence in the late 1940s and 1950s was a sign of paranoid hysteria. Even those convicted as Soviet spies in this era, most notably Alger Hiss and the Rosenbergs, have fervent defenders, and scenarios depicting them as framed innocents have ever been given respectful, often favorable, hearings.

John E. Haynes and Harvey Klehr are co-authors, with Fridrikh Firsov, of The Secret World of American Communism.

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While the likes of the Rosenbergs and Hiss are lionized as moral exemplars, the standard historical treatment of Whittaker Chambers and Elizabeth Bentley is rather different. These defectors from Soviet intelligence told both congressional panels and federal juries that the Communist Party of the USA (CPUSA) had worked hand in glove with Soviet intelligence and that dozens of Communists inside the U.S. government had been spies. Their testimony provided a rational basis for public concern about Communist subversion, and for that, Chambers and Bentley have been ridiculed, denounced as psychopaths, accused of lying on a massive scale, and their testimony treated as unworthy of serious scholarly attention.

THE END OF THE COLD WAR IS PROVIDING NEW EVIDENCE ON SOVIET ESPIONAGE AND THE CLANDESTINE ACTIVITIES OF THE AMERICAN COMMUNIST PARTY.

No longer. The end of the Cold War is providing new evidence on Soviet espionage and the clandestine activities of the CPUSA. Documents found in newly opened Russian archives, for example, have confirmed parts of their testimony. But even more startling than these Moscow documents are newly released documents from U.S. government files—files code-named "Venona."

The Venona story is one of the most successful but frustrating in the history of intelligence. In the mid-1940s cryptological analysts of the U.S. Army Signals Intelligence Service, forerunner to the National Security Agency (NSA), broke the codes used during World War II in cables between Soviet diplomatic offices in the U.S. and Moscow, but only partially. Thousands of messages were never broken, and even the 2,000 that were could be decrypted only in part. The Soviets changed the code altogether in 1946.

These Venona messages include communications between Soviet intelligence officers of the NKVD (later the KGB) in the U.S. and their Moscow headquarters. These messages show that from 1942 to 1945, at least 200 Americans covertly supplied Moscow with information on American weapons, technology, diplomacy, and war plans. In many messages, the identity of the Americans supplying the Soviets with information was obscured by the use of cover names. But even here, the information in the messages about what a cover-named agent was doing or where he was going allowed him to be identified. The NSA, with the assistance of the CIA and the FBI, thereby identified many of the 200 Americans who spied for the Soviet Union.

Venona remained a closely guarded secret until the end of the Cold War because U.S. authorities did not want the Soviets to learn how successfully America had penetrated Soviet message traffic. This decision precluded the use of the messages in legal actions against the spies uncovered in them. In a few cases, the FBI was able to develop sufficient information from other sources to convict those identified (Julius and Ethel Rosenberg, for example). In most cases, however, such evidence could not be developed, and most of the spies escaped prosecution.

Thus far only 300 of the 2,000 decrypted Venona messages have been made public. The first set, 49 messages dealing with atomic espionage, came out in mid-July. They were so clear about the extent of Julius Rosenberg's espionage that even his most fervent defenders have retreated. Perhaps at long last the Rosenberg martyrology will come to an ignominious end.

The Rosenberg documents received a flurry of press attention over the summer, but the newly released second batch of about 250 messages has received very little coverage. Yet they may be of greater historical import, because they unmask many of those named by the oft-ridiculed Bentley as spies, without any possibility of refutation by the anti-anti-Communists.

Take the case of the left-wing British journalist Cedric Belfrage. Belfrage worked for the British intelligence office that served as the liaison between Britain and the U.S. government during World War II. Afterward he was one of the founders of the American left-liberal magazine the *National Guardian*. After Bentley testified that Belfrage had been a Soviet spy, Belfrage refused to testify to congressional committees that questioned him. The U.S. tried to deport him, and he eventually left voluntarily. Later, Belfrage wrote several books and many articles denouncing the fearful mania about Communist espionage and subversion he said had taken hold in America. The Venona messages show that Belfrage was indeed a spy. He handed over to his Soviet masters documents that British intelligence had been given by the U.S. Office of Strategic Services (OSS).

Bentley also claimed that Duncan Lee, legal adviser and assistant to OSS chief "Wild Bill" Donovan, had been a Soviet agent. Unlike most of those she accused, Lee denied under oath that he provided the Soviets with OSS material, but then left the U.S. and spent most of the rest of his life abroad. Venona makes

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it official: Lee committed perjury. The documents show that he reported to the NKVD on discussions between Roosevelt and Churchill over diplomatic conflicts with the Soviet Union. Lee discussed with his Soviet controllers the risks of bringing documents out of his office for photographing, and setting up recognition signals for a Soviet agent to contact him in Chunking, China, when he planned a trip there on OSS business.

Bentley said that Maurice Halperin, head of the Latin American research branch of the OSS, was a major source for her network. Halperin denied it but, like Lee, left the United States. Decoded Venona messages show that Halperin turned over numerous secret OSS reports and American diplomatic cables to the NKVD.

The Venona messages also confirm that the following persons named by Bentley were Soviet agents: J. Joseph Julius (OSS Far Eastern section), Jane Foster (OSS Indonesian section), Thomas Bisson (Board of Economic Warfare), Harold Glasser (Treasury Department), William Ullman (Treasury Department and U.S. Army Air Force headquarters), George Silverman (U.S. Army Air Force headquarters), and Nathan Silvermaster (Board of Economic Warfare). The Soviets even had an spook in pundit-land: Mary Price, Walter Lippmann's secretary, was a Communist spy.

One of Bentley's most controversial claims was that Lauchlin Currie, a Roosevelt White House aide, was a Soviet source. Currie denied it but, like Halperin and Lee, left the U.S. after Bentley's charges surfaced. Venona proves that Currie did turn over U.S. diplomatic reports to the NKVD and warned them that the FBI was investigating Nathan Silvermaster as a possible security risk.

In addition to those named by Bentley, Venona also confirms previously denied charges of Soviet spying by Laurence Duggan (State Department official), John Scott (OSS Russian section), Ilya Wolston (U.S. Army Military Intelligence), Joel Barr, and Alfred Sarant. The last two were engineers and associates of Julius Rosenberg who worked on high-technology American weaponry in the 1940s. Both vanished at the time of Rosenberg's arrest and surfaced decades later in the Soviet Union working on Soviet military electronics.

The Venona decryptions hammer home another point. The consensus among historians has been that while some individual Communists may have worked with the NKVD, the Communist party as an institution was not involved. If there had been no link between Soviet intelligence and the CPUSA, then the obsession with security inside the Truman and Eisenhower administrations—forcing officials to sign loyalty oaths, laborious efforts to classify and restrict documents—was simply irrational. Worse yet, congressional inquiries about government employees with Communist links would have been grotesque at best and undemocratic at worst.

These objections crumble in the face of the Venona decryptions. The 300 messages released thus far deeply and profoundly implicate the American Communist movement in Soviet espionage. In these messages, NKVD officers repeatedly acknowledge that U.S. Communist party officials and members were assisting their activities. Jacob Golos, a senior American party official, relayed messages from Belfrage, Ullman, Silvermaster, and Currie.

Earl Browder, the chief of the Communist party, discussed Elizabeth Bentley's espionage role with Moscow. Bernard Shuster, an official of the party's New York organization, assisted Julius Rosenberg in his espionage and was asked to vet several persons that the NKVD regarded as potential agents for penetrating the U.S. atomic bomb project. One message, sent from Moscow headquarters to regional NKVD offices, instructed Soviet intelligence officers to be more careful about contacts with the American party.

Venona is so clear on the organic relationship between Soviet intelligence and the CPUSA that even Walter and Miriam Schneir, who have devoted much of their lives to defending the Rosenbergs, have given up on this point. In an article in the *Nation*, the Schneirs admit that the Venona messages "implicate the American Communist Party in recruitment of party members for espionage."

ONCE THE LINK BETWEEN AMERICAN COMMUNISTS AND SOVIET INTELLIGENCE IS ACCEPTED, THE LEFT CAN'T MAKE THE CASE THAT ANTI-COMMUNISTS WERE WITCH-HUNTERS.

That may be a turning point in the discussion of these matters. For once the link between the American Communist party and Soviet intelligence is accepted; once the extent of the American party's role in Soviet espionage is admitted; then the left can no longer make the case that the anti-Communists were engaged in a witch-hunt.

Time for the revisionists to revise their own histories of the Cold War. ♦

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Old Glories in Tandem: Flag and Constitution

By Richard Parker

Forgotten the flag amendment? You shouldn't. The final Senate vote is imminent. Just a few uncommitted senators, Republicans and Democrats, will decide whether it gets the needed two-thirds support. It's been eclipsed, of course, by other matters—the budget battle and, recently, race relations. But these "great issues" present, at bottom, the same question the flag amendment presents. Race: Are we one nation? The budget: Is there life left in popular sovereignty? Enough to get a grip on the government? Both issues test populist democracy. And, as a gauge of populist democracy, few current controversies are more telling than the proposed amendment authorizing the people's representatives, if they choose, to "prohibit the physical desecration of the flag of the United States."

Since 1989, when a 5-4 majority on the Supreme Court first invalidated long taken-for-granted laws against flag desecration, most polls have shown decisive support for a flag amendment, often near 80 percent. At the same time, "thoughtful" commentators, unelected "opinion leaders," and, especially, the mainstream media have overwhelmingly opposed it. Since June, when the House voted for the amendment, 312-120, their reaction has been relentless and—in day-to-day "reporting," editorials, and op-ed pieces—relentlessly one-sided. Not just one-sided, but haughty, nasty, and often hysterical.

The arguments against the amendment have, also, been remarkably formulaic. The editorials, the op-ed pieces, and the "reporting" have knocked off the same claims again and again. Let's review the three main clusters of arguments. From the flagrancy of each, there spring—like flowers in a landfill—populist arguments in favor of the amendment. Taken together, they establish this issue as an index of the populist challenge to both establishment liberalism and establishment conservatism.

The flag is the unique symbol of our aspiration to national unity: That much is accepted by everyone as a starting point. What's contested, at the outset, is whether protection of this symbol should be taken seriously—along with subsidiary questions of whether protection is needed and whether it would be effective. Of course, the opponents say they "revere" the flag. Yet they belittle, even mock, the amendment on all these counts.

Here's how their argument goes. The flag, they say, is a "mere" symbol. They insist on boiling down its meaning. What it "really" stands for, they tell us, is a national commitment to certain official institutions, certain liberties under law. And the freedom the flag symbolizes, they go on, includes a freedom to burn it. They grant that flag desecration is "offensive." They compare it, however, to displays of Nazi or Klan regalia. The offensiveness of these displays to minority groups, they say, is no less—in fact, they suggest, it is greater. Hence, the freedom to offend such groups, they claim, dictates a freedom to burn the flag, which offends other groups. They conclude with a one-two punch: This freedom, they say, is pretty much without cost since the tendency to exercise it is, at the moment, weak. (There have been rather few flag burnings in the last several years.) They predict, on the other hand, that any attempt to restrict this freedom would be ineffective (hence costly) since the desire to exercise it is so strong and would only get stronger in the face of legal prohibition.

Take, first, the matter of what the flag symbolizes. We are, by now, accustomed to being told, by smug elites, what are the "real" issues in an election and what is the "real" meaning of this or that common experience. In this case, the meaning said to be the "real" one is especially revealing. Here we have many members of our self-imagined governing class identifying the flag with official concepts and processes for whose definition and operation *they* are in the habit of claiming primary, almost proprietary, responsibility. Thus Charles Fried—a former solicitor general who specializes in constitutional law—proclaims that the "thing itself," which the flag symbolizes, is the Constitution. How convenient. It's no surprise, then, that

Richard Parker, professor of law at Harvard University, is the author of Here, the People Rule: A Constitutional Populist Manifesto.

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opponents of the amendment go on, with stunning circularity, to announce—as if we must, of course, take their word for it—that what the flag stands for is the freedom to burn it.

No less revealing is their comparison of the "offensiveness" of flag desecration to that of expression that's hurtful to certain minority groups. They insist on reducing everything—including the unique symbol of our aspiration to national unity—to competing interests of diverse groups. You can't help wondering why they are trying to obscure other values symbolized by the flag, values on a different, deeper dimension.

These, of course, involve aspirational bonds, not divisions, among Americans. They have to do with Americans *as a people*. They're about the nation, not the government. Even more, they're about a people—"We, the People"—that is supposed to govern itself. For ours is a nation defined not by any shared ethnicity, but by a political practice, a practice of popular sovereignty based in political equality. These are foundational values. They underlie official institutions. They undergird law. They precede the Constitution. And, as such, they threaten the pretensions of any elite.

When opponents of the amendment argue that protection of the flag is not needed and would be ineffective anyway, they reveal their bias yet again. Seeing themselves as responsible for good government—nowadays, they prefer to say "governance"—of the people, they take for granted that the problem is one of behavior control. But the number of flag burnings last year or next year is not what should most concern us. We're talking about a symbol here. Whether two or two hundred burnings of *a* flag damage *the* flag, as a symbol, depends on our *response* to the behavior. Don't forget why the amendment was proposed in the first place. When the court, six years ago, overturned the laws against flag desecration, it declared permissible what had long been understood to be impermissible. It officially demoted the unique symbol of our popular sovereignty to the level of myriad competing values and interests. Symbolically, it demoted the nation to the level of the government. Or, one might as well say, it turned the government, symbolically, against the nation. This at a moment when millions are convinced that the government has been doing just that for some time in all sorts of ways. This symbolic challenge by the court, in the name of the Constitution, is properly answered in the Constitution, by exercising the sovereign right of the people—symbolized by the flag—to amend it.

So, we come back to the flag as a "mere" symbol. The argument denigrating it on this ground sits oddly in our era of identity politics. But, be that as it may, the thing to remember is that—views of the current legal establishment to the contrary notwithstanding—the Constitution is, above all, a symbolic document. Its genius is its grand ambiguity on crucial matters. It is not a set of rules and regulations. Nor is it a blueprint. Being in large part symbolic, it is hortatory. As such, it has helped summon astonishing political energy and creativity. And its boldest symbolic stroke was its first three words. Thus, in an era when our governing elites depreciate the ideal of popular sovereignty, the flag amendment simply seeks to reaffirm the exhortation of the framers.

Turn now to the second cluster of arguments about the amendment. It has to do with freedom of speech. Libertarians—liberal and conservative—deplore the flag amendment as "mutilating" and even "desecrating" our most precious civil liberty. To undo the court's flag-burning decisions, they say, would violate an inviolable rule that forbids regulating the content of political expression. And, they insist, it would set down a subversive counter-rule, which would authorize censorship, compel affirmation of political orthodoxy, and push toward totalitarianism. Only totalitarian governments, they claim, protect their flags. (Was the United States totalitarian until 1989?) Rising to a crescendo, they cry that we must never, ever "amend the First Amendment."

It surprises them that supporters of the flag amendment agree with most of the values and principles they invoke. I, for one, am a civil libertarian. I believe that, in a democracy, freedom of speech must be "robust and wide open." In fact, I think it ought to be more robust and wide open than it is now. For populists, public expression by all sorts of people—not just the "thoughtful" ones—is vital to popular sovereignty. Hence, unruly expressive "conduct" mustn't be sharply segregated from more genteel "speech." (Chief Justice Rehnquist did that in dissent in the flag-burning cases). Nor should "inarticulate" expression be devalued. (Rehnquist did that, too.) And it's because of these beliefs that many of us support the flag amendment. How could that be? Such a view doesn't show up on the radar screen of the establishment. The reason is that its screen is a mirror.

In the mirror, establishment libertarians see only themselves and their imagined opposites, oppressive and benighted. That's why they're so given to hyperbole. Thus, what blinds them to the populist position is a compulsion to exaggerate both the amendment's "contradiction" of current free speech principle and its likely effects. As people who deplore those who "play

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Michael Ramirez

on fear," they can't seem to help doing it.

Consider the supposed "rule" against restriction of speech content. There is, of course, no such "rule." (Think of obscenity.) There's no such "rule" even for political speech. The court has held that statements criticizing official conduct of a public official may be restricted, if they are known to be false and damage the reputation of the official. This was made clear by the Warren court—in an opinion by Justice Brennan, the very opinion that celebrated freedom of speech as "robust and wide-open." It's been reaffirmed ever since. The idea must be this: Some very minimal parameters on the content even of political speech will not suppress and may actually be a condition of its continued robustness. Wide-open debate explodes and dies, after all, if there are absolutely no limits on what anyone says about anyone else.

On the right, on the left, and in the center, nowadays, it's widely agreed that these parameters have broken down and must be restored. On the right, it's thought that "uncivil" and "unreasoned" speech content needs to be checked. (The court, on occasion, has interpreted the First Amendment in light of that belief.) On the left, it's thought that "hate" speech, beyond face-to-face "fighting words," needs to be checked. (On occasion, the court has read the First Amendment in light of that belief as well.) The problem is that these prescriptions invite regulation so broad and vague that robust expression really might be suffocated. In the center, by contrast, there's support for *much more minimal* restraint—on intentional, physical trashing of the unique symbol of the bonds that *make wide-open debate possible.* This leaves it to individuals, in a thousand other ways, to criticize the government and even the aspiration to national unity, if they want. It simply affirms that there is some commitment to others, beyond mere obedience to the formal rule of law, that should be respected as a basis of a flourishing freedom of speech.

To picture what is at stake here, recall the civil rights movement. Recall not only its invocation of national ideals, but also its evocation of nationhood. Recall the famous photo of the Selma marchers carrying American flags. The question is: Will the next Martin Luther King have available to him or her a basic means of identification with the rest of us—an inclusive appeal to the bonds that, at least in aspiration, make us one?

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This is no subversion of free speech. Quite the opposite. To claim it is, opponents of the amendment have to misrepresent it. They can do so confident that no one will question them in the mainstream media. One example: In the *Washington Post*, Nat Hentoff equated prohibiting physical desecration of the flag with something very different—a mandatory flag salute, long ago held unconstitutional as a "compulsory rite," coercing a declaration of belief. Surely, he saw the difference. But, after a few paragraphs, he was back suggesting that advocates of the amendment want to make it a crime to "imagine" burning the flag. Is it too much to ask Hentoff and the others a version of the question asked by Joseph Welch: Have you no shame?

Since shame won't be forthcoming, here's another question. What is it they are afraid of? Playing their own game, I'd say what's "really" going on is this: Seeing themselves as responsible for "enlightened" government, they fear the idea of the nation, the prospect of popular sovereignty, the empowerment of ordinary people. The amendment excites their fear not just because it dramatically reasserts the idea of the nation. It addresses, also, the popular basis of robust, wide-open debate. And, what's more, the very process of amending the Constitution stirs their ultimate nightmare, of ordinary people—"rude blue-collar types," in the words of one of my colleagues—remaking basic law. And that leads to the third cluster of arguments.

Probably, the argument that opponents make most often is this last one: We must not "tinker" or "fiddle" or "fool with" the Constitution, they say. (Even Colin Powell said this. It seems to come easily to "thoughtful" people who haven't thought much about the matter.) Notice the verbs they use to describe the process of constitutional amendment. Almost invariably, they're full of disdain, belittling, insulting. Such verbs are rarely used to describe judicial interpretations or lawyers' interpretations or academic interpretations of the Constitution. Nothing could be more revealing—of what motivates the opponents and what should spur on advocates of the flag amendment—than this choice of words. From this root disdain for democracy, they spin out a cluster of related routine arguments.

The Constitution, they say, is too "fragile" to be touched (at least by callused hands). They speak "learnedly" of its "delicate balance." These sound-bites, of course, are numbingly familiar. Their very familiarity may numb us to their absurdity. For, far from proving fragile, the Constitution has proved, over two centuries and radical shifts in its accepted meaning, to have an extraordinary tensile strength, enduring by adapting—through reinterpretation and through amendment—to circumstances, changing and unforeseen. Just as John Marshall promised long ago.

Suspecting this argument may not be convincing, they move to another where they can have some fun (which is to say, where they can give their disdain a humorous free rein). Constitutional amendments, they—correctly—observe, *may* have unintended consequences. What they go on to claim—incorrectly—is that amendments *will* have specific, outrageous sorts of consequences, not intended by their drafters. So, they talk of (and flourish) all sorts of items with a flag logo on them: handkerchiefs, bathing suits, underwear, you name it. "These will count as flags!" they proclaim. Writing in *Time*, Barbara Ehrenreich focused—as most do, interestingly—on underwear. "[E]ven a small lapse of personal hygiene," she whooped, "may constitute a punishable offense."

Do these people have no faith at all in our court system? At one moment, they pose as traditionalist believers in the established system of "governance." Then, they imagine that judges, interpreting new—and very minimal—constitutional language, will go bonkers.

Amid the frivolity, the absurdity of their argument may, again, go unnoticed. Anyone who knows anything much about judges at the end of the twentieth century knows that they will be suspicious of new constitutional provisions. They will read them sensibly, even narrowly. They will look to the recorded intent of the framers. And they will harmonize them with older provisions. Hence, what counts as a "flag" and as "physical desecration" will be influenced (possibly determined) by the statute Congress enacts under the amendment and, in any event, will be tightly limited by common sense and the First Amendment.

And, so, the opponents are reduced to their last argument. The Constitution, they cry, is perfect as is. It is not "a rough draft," intones Representative Pat Schroeder. Here, the absurdity swells wonderfully and turns back on itself. For if the Constitution is perfect, part of its perfection must be Article V, which provides for its amendment.

What the framers called for in Article V is a democratic process through which the people—the nation—may pull the reins on the government, reins which the framers meant, always, to be in the hands of the sovereign people. In this century, the people's grip on the reins has slackened. Isn't it time—now—to take hold? To establish, again, the constitutional premise of self-rule? To confirm that we are, after all and above all, one nation? ◆

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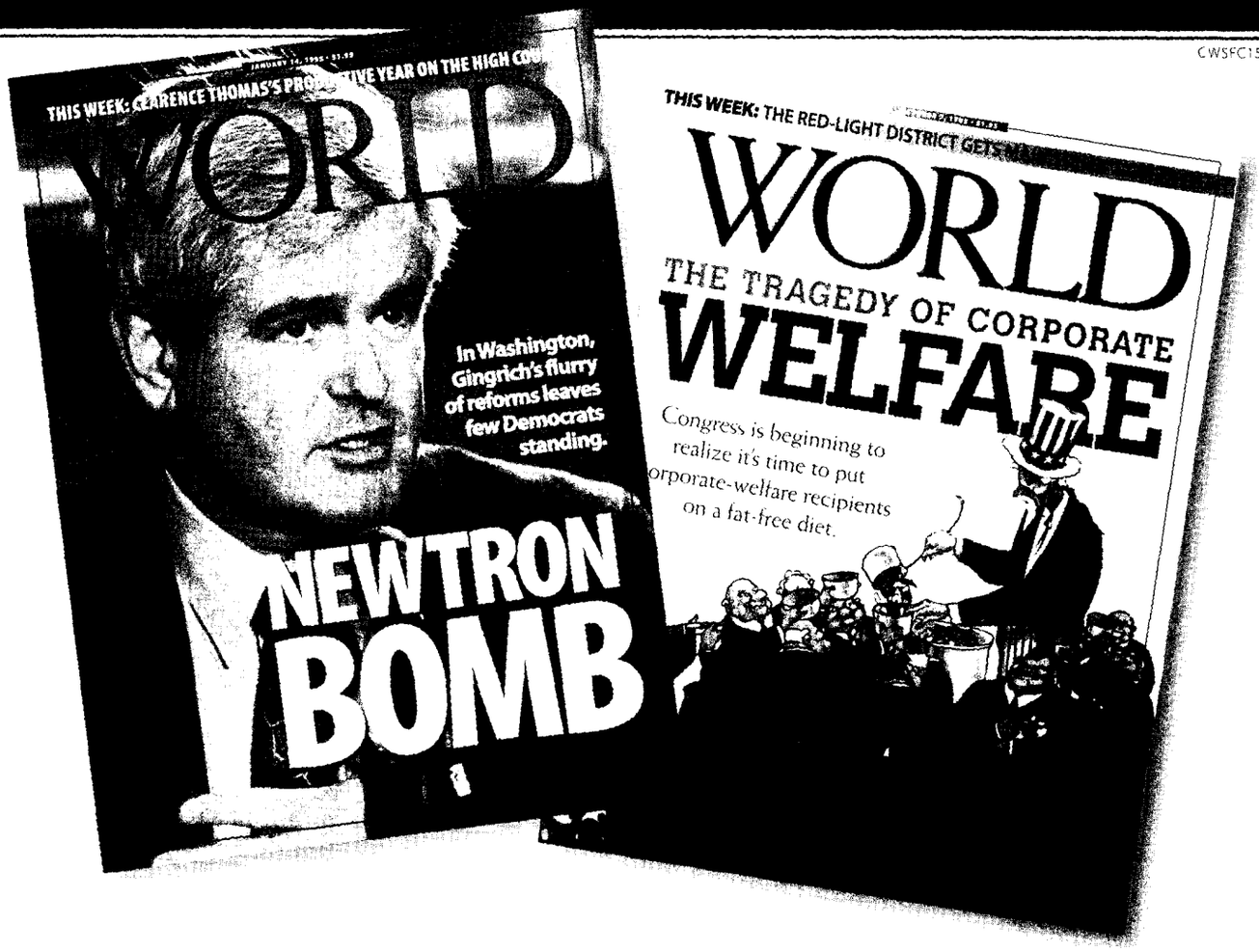

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Why Write a Kiss-and-Tell When You've Been Leaking For Years?

By Charles McCarry

The Washington memoir falls into three broad categories: the elegiac, for ex-presidents; the therapeutic, for former chamberlains who have been frog-marched through the media in their psychic underwear; and the opaque, for those who found happiness in Washington and would like to come back someday.

In *The Politics of Diplomacy* (G.P. Putnam's Sons, 687 pages, $22.50), James A. Baker III strives for opacity but achieves something quite different. "I was determined," the author declares in the preface to this account of his years as George Bush's secretary of state, "not to write the sort of kiss-and-tell account that seems so distressingly in vogue these days." Of course, that's what they all say. But Baker really meant it, and the result is the sort of work that the protagonist of George Orwell's *1984* had in mind when he perceived that the best books are the ones that tell us what we already know.

Appropriately, that turns out to be the great strength of this particular book. After all, we have Baker, a consummate handler of the media, to thank for much of what we already know about the inner workings of the Reagan and Bush administrations. Any presidential consort who survives to the end of a reign (much less two, as in Baker's case) has already written his real autobiography under the bylines of favored reporters and settled all important scores through judicious leaks. He has nothing to gain, and much to lose, by lifting the curtain on inner self or inner circle.

The Politics of Diplomacy gives us something far more valuable than mere autobiography. Out of countless seemingly meaningless details, it paints a Seurat-like portrait of the banality of power, making us aware how truly deadening is the reality of life at the top, and what painful effort is required from the cast of hundreds who cogitate, fetch, and remember things for the mighty to achieve the simplest result.

To the figures who look out upon the real world from within this work of pointillism, the most routine gesture often seems remarkable, as if Stuart's *George Washington* had managed after two centuries of deep concentration to scratch his nose. We are told how, after marathon discussions of a joint policy on arms negotiations, the foreign ministers of Britain, Germany, and the United States were rescued from deadlock by Joe Clark, a State Department man who "came up with the idea of putting the adverb 'partially' before the verb 'reduce.'" Baker himself later suggested underlining the adverb (which had by then been refined into an adjective) in the final draft "to emphasize there would be no zero" in regard to the number of short-range nuclear forces deployed by NATO.

Elsewhere Baker describes the tortuous thought process by which he and his advisers decided that he would shake hands with Iraqi Foreign Minister Tariq Aziz "but . . . without smiling, my look of distaste evident," and names a Foreign Service officer who "became a legend . . . by getting [George] Shultz's entire entourage into Moscow by train from Helsinki when the Soviet capital was fog-bound."

The isolation of power creates a weakness for intimacy, even false intimacy, and Baker speaks time and again of the "pull-aside"—that spontaneous moment when a head of government or a foreign minister steps out of character, seizes his interlocutor by the arm, and says what is really on his mind or in his heart. Baker seems always to have been gratified by such gestures, but the reader is likely to be left with the feeling that you really had to have been there when, for example, F. W. de Klerk tells him "in a voice brimming with conviction . . . 'I am going to be the last white president of South Africa.'"

Baker's tenure as secretary of state was surely one of the most eventful in history, encompassing as it did the fall of the Soviet Union, the economic and diplomatic resurgence of China, the reunion of Germany, the Gulf War, the recurrence of the long-suppressed Balkan nightmare, the first steps toward the creation of a Palestinian homeland, and much else. In one of the crankiest historical outcomes since the defeat of Churchill in 1945, all these triumphs for America culminated in the rejection by the American electorate of the president who presided over them—the same president to whom Baker had devoted most of his adult life in a long process of

Charles McCarry, the author of the recent Shelley's Heart *and seven other novels, collaborated with Donald T. Regan and Alexander M. Haig, Jr., on their memoirs.*

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advising, preserving, positioning, and finally electing.

Although Baker was certainly aware of the effect of his work on the lives of nations and people, his preoccupation more often than not seems to have been with how policy played in the media. Trumped in the press by Mikhail Gorbachev on first meeting and many times afterward, Baker "was not sure how much business we could do if he was more interested in playing past us to the Western publics." He saw in the invasion of Panama a means of "breaking the mind-set of the American people about the use of force in the post-Vietnam era" and "an emotional predicate that allowed us to build the public support so essential to the success of Desert Storm thirteen months later." Desert Storm itself ended with Saddam Hussein still in power, partly (perhaps largely) because so many fleeing Iraqis were being killed in U.S. air strikes that the administration feared the effect on world opinion of "grisly news photographs of the carnage."

After an intensive diplomatic effort nearly unique in American history, in that it was designed to make war possible rather than to preserve or restore peace, Baker's chief thought was that the Bush administration "had quite literally convinced the world of the necessity for war . . . but had so far been unable to get Congress and U.S. public opinion firmly behind [the president]." He does not mention that this might have had something to do with the fact that American troops would bear the brunt of the war, rather than soldiers from any of the 12 countries whom Baker had visited in a marathon of consultation, arm-twisting, and what he calls vote-buying: $2-3 billion in guaranteed World Bank loans for Turkey, $7.1 billion in forgiven debts for Egypt, the loss of $70 million per year in U.S. aid by Yemen for voting wrong in the Security Council, but $15 billion each from Saudi Arabia and Kuwait toward the cost of the war.

Despite, or because of, this world view, Baker's book often reads like a variation on *It's a Wonderful Life*, in which Baker, playing the Jimmy Stewart role, is allowed by his guardian angel to see the world not as it would have been if he had never been born (a far worse place), but as it is because he was born (a far better one). There is nothing boastful or even conscious in this; like Hollywood's George Bailey, Baker simply plays the hand that fate has dealt him and ends up being the indispensable man.

In this regard Baker owes much to his collaborator Thomas M. DeFrank, long *Newsweek*'s senior White House correspondent, who has performed prodigies of organization and endowed his author with a consistent and engaging voice while conscientiously suppressing his own. Only rarely, as in a nicely muted description of Moscow in the rain, does the ghost permit himself to be heard, or let Baker lapse into policyspeak, as in "Kimmitt's heads-up call had enabled me to leverage Shevardnadze's Georgian passion to the maximum advantage."

Strangely enough, it is Eduard Shevardnadze, Gorbachev's first foreign minister, who provides most of the human moments in this narrative. It would be hard to imagine anyone more different from the patrician, buttoned-up, clubbable Baker than this impulsive, intellectually disheveled, conscience-stricken apparatchik. Yet Baker liked Shevardnadze tremendously from the start, and despite many betrayals of trust arising from Gorbachev's compulsive double-dealing, he seems to have trusted him almost absolutely. And indeed it is difficult not to be charmed in a way when Shevardnadze, emerging from the dank cellars of Bolshevik "history" into the light of reality, shares insights with Baker. "There was a time," he confides at one point, "when Moscow had encouraged the application of the Soviet model in Eastern Europe; the consequences were not very positive."

At a home-cooked dinner for four in the Shevardnadzes' Moscow flat, Mrs. Shevardnadze smothers her husband's statesmanlike point about the 1,500-kilometer border the U.S.S.R. shared with Iran with heartfelt horror stories of the 17th-century Persian conquest of Georgia, when the shah's agents forced the queen of Georgia to renounce Christianity and then burned her at the stake. "I have my own attitude about Iran . . . a Georgian attitude," she proudly declares. Such poignantly naive encounters with the grandchildren of the Revolution provide Baker and the reader with insights into how little the East knew about us and how little we knew about it in the murk of the Cold War, and remind us what a lot we have learned in the six short years since the toppling of the Berlin Wall.

Another man to whom Baker warmly responded was Richard Nixon. Baker's rendition of Nixon's thumbnail personality profiles goes far toward explaining why those who really knew him relished his phone calls. Of State Department spokeswoman Margaret Tutwiler, Nixon says, "She has that nice, soft southern accent. At the same time, she's tough, mean, and devious. Perfect!" About Lawrence Eagleburger, Baker's choice for deputy secretary of state: "Smart as a shithouse rat."

There are other flashes of *cinéma vérité*, as when Baker distributes an eight-page top-secret memorandum on Central American policy to the 10 most trusted Republican

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leaders of the House and then collects them at the end of each meeting. Or in his encounter with "two members of [Senator Christopher J.] Dodd's staff who were so angry that the veins in their neck were bulging . . . [because] a draft agreement contained two references to the need for democratic reform in Nicaragua. 'This is a provocation,' one of them sputtered. 'You're trying to rub their noses in it.'"

When speaking of presidents, however, Baker clearly does not subscribe to Plutarch's dictum that, where the great are concerned, "sometimes . . . an expression or a jest informs us better of their characters and inclinations than the most famous sieges, the greatest armaments, or the bloodiest battles."

Gerald Ford appears almost exclusively in the dot-matrix of recycled news clippings, and Ronald Reagan is handled in a smattering of asides, mostly concerning the object lessons provided by his unfortunate personnel choices at the National Security Council and State.

Kent Lemom

Here Baker lapses into healthy acerbity, describing Reagan's foreign policy apparatus as "a witches' brew of intrigue, elbows, egos, and separate agendas" conducted by "principals whose small-bore behavior" torpedoed a plan (hatched by Baker and Mike Deaver) to solve the problem by making Baker national security adviser. Baker's years as Reagan's Talleyrand, the skeptic more trusted by the ruler than the true believers, presumably will be covered in a future, more liberated memoir.

Meanwhile, the most interesting thing about Baker—his long friendship with George Bush, and the manner in which the two of them managed their survi-val and eventual poli ical triumph in a party and administration in which they were widely regarded as apostates—remains a mystery. Throughout the narrative President Bush is an offstage figure; he drops in now and then, usually to say something meaningful to the press or something kind to Baker, whom he always calls Jimmy, and then drifts back into the wings. When the Berlin Wall falls, Baker goes over to the White House to watch live coverage of the event on CNN with the president. Baker tells us that they talked as they watched "the Iron Curtain ripped asunder." But he does not tell us what they said, or how the president reacted, or if, like Baker (later, of course, when he was alone), he "[found] it hard to hold back tears of joy."

Early in Baker's career, over a vodka martini, John Tower remarked to him, "You know something, Baker? This is a squalid business we're in." Baker, new to Washington and still in possession of his illusions, replied, "Speak for yourself, Senator."

On the evidence of *The Politics of Diplomacy*, Jimmy Baker hasn't changed all that much in the intervening years, and that may explain much that lies between the lines of this book, which fascinates in spite of itself. ♦

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Books

Block that Paradigm!

By Alan Ehrenhalt

On the day that James P. Pinkerton decided to become a futurist and political thinker, Madison Avenue missed its opportunity to recruit a copywriter of awesome potential. Ever since the day in 1990 when he emerged from the recesses of the Bush White House to proclaim the "New Paradigm" to a meeting of the World Future Society, Pinkerton has been coining slogans, phrases, and trends with a facility that rivals the output of the Ted Bates Agency during its heyday in the 1950s.

What Comes Next, his new book about the culture and politics of the approaching millennium, is his phrase-making masterpiece. Pinkerton mints literally dozens of shiny new verbal constructions, from "hypercrime" (the combination of rising fear and declining actual crime rates) to "vealocracy" (a bureaucratic system run by the clients, rather than the bureaucrats).

He doesn't just introduce his inventions one by one: He combines them into equations. "Current politics are still mired in the precepts of the Old Paradigm," Pinkerton reminds us at one point. "It is the persistence of these old ways that brings the divided cyber-economy and the paralyzing fear of hypercrime. Together, they bring the Cyber Future."

Or listen to this one: "It might be argued that the two subjects of this chapter, the "Vealification" of the bureaucracy and the launching of "Orbital Bureaucrats," should together be viewed as the sixth Bug in the BOS." When he is going at full speed, Pinkerton appears to challenge the accepted notion that there is no such thing as a private language.

He has as much fun with ordinary words as he does with his Capitalized Concepts. Every few pages, he puts on a dazzling display of alliterative acrobatics. He warns of a "demoralizing dollar-falling downdraft," in which the "simultaneity of suffering and surfeit are unmistakable." He worries that the future holds a "byte-driven bobsled to the bottom line" or, even more ominously, "the bladerunner runoff of a rusting paradigm." He declares that the old bureaucratic ways "cannot cope with the cyberflood, the gushing gigabyte magma of cognition."

Pinkerton isn't just a phrase-maker; he is the Dr. Seuss of contemporary political thought.

For all the compulsive wordplay, there is something undeniably appealing about Pinkerton and his curiosity. He is determined to examine every crevice of 1990s American culture and take all the evidence seriously. He is interested in health care and budget reform, horror movies and grunge music. He is capable of quoting Alan Greenspan in one paragraph and Douglas Coupland in the next. And he does it all with an enthusiasm and sense of adventure that excuse a multitude of rhetorical excesses.

In his passion for words, names, and slogans, moreover, Pinkerton is hardly alone among thinkers who choose the future as their field of study.

Somehow it seems as though all futurists have an irresistible passion for naming things. Newt Gingrich certainly does; he had scarcely set foot in Congress before he began proclaiming the existence of the "Conservative Opportunity Society" and setting off on a long quest to figure out what, if anything, it might be. Alvin Toffler, Gingrich's intellectual mentor and the man who all but inaugurated present-day futurism, has some of the naming passion as well. *Future Shock*, the 1970 book that made Toffler's reputation, gave us "adhocracy," "anticipatory democracy," and a whole collection of other coinages.

The old-fashioned way to think is to have ideas and then come up with names for them. Futurists prefer, when possible, to reverse the process; they like to coin phrases and ask the hard questions later. Perhaps that is the intellectual style of the future.

It is the style that Pinkerton, for better or worse, frequently chooses to apply. The "New Paradigm," though it has been part of the language of American public policy for the past five years, has never had a very distinct meaning even for most of those who use it, whether they are refugees from the Bush administration, enthusiasts in the Gingrich Congress, or re-inventers of government in the Clinton White House. The "New Paradigm" has always been a slogan in search of a definition.

What it does have is a pedigree. Pinkerton has never been obscure about where he got it—he got it from Thomas S. Kuhn's 1962 book, *The Structure of Scientific Revolutions*, in which Kuhn describes the intellectual convulsion of Nicholas

Alan Ehrenhalt, a columnist for Governing *magazine, is the author, most recently, of* The Lost City.

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Copernicus's discovery that the earth revolves around the sun, and not the other way around.

Copernicus overturned a thousand years of astronomy, speaking truths that might have been obvious to any educated person but that nobody else had been able to understand, because everyone was imprisoned in the old heliocentric way of thought—the "Old Paradigm."

Fortunately for the history of science, Copernicus was not a futurist, just an observer. So he began by studying the heavens and published his conclusions only when they became inescapable. Had he been a futurist, he would no doubt have operated differently. He would have started by proclaiming the "New Cosmology" and only then set out to determine whether there was one.

Kent Lemom

James P. Pinkerton

What Comes Next is Pinkerton's attempt to demonstrate, first, that Kuhn's unquestionably powerful ideas about scientific change have some relevance to American government in the 1990s, and second, that a revolution of comparable importance is in fact about to occur. These are, to say the least, not easy points to prove. It must be said that Pinkerton makes a brave attempt.

The Old Paradigm, he argues, is bureaucracy. For roughly the first 90 years of this century, American government has attempted to solve public problems by creating ever more complex bureaucratic layers—rules, regulations, hierarchies, endless stacks of paper, whole administrative cities full of civil servants dedicated to nothing more than following the rulebook as they understand it.

Initially, this was a good thing. It replaced corrupt political machines that made decisions on the basis of nepotism and greed. But the Bureaucratic Operating System is collapsing of its own weight. It is symbolized, in the 1990s, by the ombudsmen and inspectors general who prowl the halls of federal agencies to prevent them from becoming utterly dysfunctional.

No one will find this unfamiliar, and few will fail to see some wisdom in it. Large segments of the federal government continue to remain in business long after they have proven themselves incapable of solving the problems they were created to solve. Whether "bureaucracy" is the best explanation of this failure is another question. It seems simpler and more logical to say, for example, that government fails to cope with the most difficult social troubles—violence, teenage pregnancy, decaying cities—largely because society hasn't got a clue what to do about them and refuses to admit it. Bean-counting bureaucrats squirreled away behind green partitions at HUD or HHS are a problem; whether they are The Problem in some grand historical sense is debatable, to say the least. After a few chapters of Pinkerton on bureaucratic evil, you begin to

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feel as if you were watching a horror movie with Don Knotts cast as Satan.

But Pinkerton, to be fair to him, has a larger point to make, even if he doesn't make it with perfect clarity. The Old Paradigm isn't just bureaucracy; it is authority. It is people in positions of influence—not just government bureaucrats but politicians, planners, and elders of all sorts—making decisions on behalf of ordinary people who would be better off making the decisions themselves. Someday soon, Pinkerton predicts, American society will break loose from these shackles of authority and turn more choice back to the individual. On that day, the New Paradigm will have arrived. The new paradigm is Choice.

"People are happiest when they can choose," Pinkerton says. "When they can think for themselves, be in charge of something." And few will disagree with that. When the New Paradigm arrives, Americans will be free to exercise all sorts of personal options that somebody in bureaucracy—somebody in authority—always used to make for them. They will have vouchers for education, vouchers for health care, vouchers for job training. They will have so many vouchers they will need extra wallets to carry them all. They will thrive on the freedom. And the results will be miraculous.

At a time when government is so obviously failing on so many fronts, choice is a powerful policy idea. It's much less clear that it is a big enough idea to be called a New Paradigm. It seems to me that most of us, liberal or conservative, will find that the appeal of choice varies dramatically from one area of policy to another.

Pinkerton makes an intriguing case for the use of vouchers in health care—medical savings accounts that enable people to make more decisions about their own medical treatment but require them to bear more of the initial out-of-pocket costs. He makes a much less appealing case for job-training vouchers, which still sound to me like a multi-billion-dollar boondoggle likely to shower the bulk of their benefits on a giant army of private job-training consultants.

He seems to regard choice in education as a virtual vaccine against the educational pathologies of the inner city. "Once all students have vouchers," Pinkerton insists, in a characteristic burst of enthusiasm, "good schools will spring into being almost as quickly as Blockbuster video stores." I wish that were true. I can't help believing that it shows far too little respect for the depth and complexity of the problem.

In the course of outlining his New Paradigm political agenda, Pinkerton has something interesting to say about a whole range of subjects, from taxation to drug treatment to veterans' hospitals. As a compendium of suggestions, *What Comes Next* is useful. As a manifesto for the next millennium, it leaves a great deal to be desired. Nothing that Pinkerton says about bureaucracy makes it sound comparable in historical scope to the notion that the earth is the center of the universe. Nothing about choice or vouchers or empowerment is as big an idea as the one Copernicus released into the world.

Perhaps that is holding Pinkerton to an absurdly high standard. On the other hand, it is one that he appears willing enough to impose. "All Americans," he proclaims, "whether they deem themselves Democrats, Republicans, independents, or anything else, must sooner or later adapt to the reality of the New Paradigm." That sort of ultimatum seems to me to empower all of us readers to weigh his Big Idea on a Cosmic Scale. When that measurement is performed, it comes up a couple of tons light. ♦

Americana

The Tocqueville Fraud

By John J. Pitney, Jr.

Alexis de Tocqueville's *Democracy in America* is a beloved, canonical text; the urge to quote from it is understandably great. Politicians ever seek to demonstrate familiarity with it, from Bill Clinton to Pat Buchanan. One of their favorite quotes runs as follows:

> I sought for the greatness and genius of America in her commodious harbors and her ample rivers—and it was not there . . . in her fertile fields and boundless forests—and it was not there . . . in her rich mines and her vast world commerce—and it was not there . . . in her democratic Congress and her matchless Constitution—and it was not there. Not until I went into the churches of America and heard her pulpits flame with righteousness did I understand the secret of her genius and power. America is great because she is good, and if America

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ever ceases to be good, she will cease to be great.

These lines are uplifting and poetic. They are also spurious. Nowhere do they appear in *Democracy in America*, or anywhere else in Tocqueville.

The authenticity of the passage came into question when first-year government students at Claremont McKenna College received an assignment: Find a contemporary speech quoting Tocqueville, and determine how accurately the speaker used the quotation. A student soon uncovered a recent Senate floor speech that cited the "America is great" line. He scoured *Democracy in America*, but could not find the passage. The professor looked, too—and it was not there.

Further research led to reference books that cautiously referred to the quotation as "unverified" and "attributed to de Tocqueville but not found in his works." These references, in turn, pointed to the apparent source: a 1941 book on religion and the American dream. The book quoted the last two lines of the passage as coming from *Democracy in America* but supplied no documentation. (The author may have mistaken his own notes for a verbatim quotation, a common problem in the days before photocopiers.) The full version of the quotation appeared 11 years later, in an Eisenhower campaign speech. Ike, however, attributed it not directly to Tocqueville but to "a wise philosopher [who] came to this country . . . ."

One may conjecture that Eisenhower's speechwriter embellished the lines from the 1941 book and avoided a direct reference to Tocqueville as a way of covering himself. Speechwriters do such things from time to time. In his wonderful primer on politics, *Playing to Win*, Jeff Greenfield presented a model stump speech complete with a fake quotation from the Greek philosopher Heraclitus. "If you are worried about being found out," Greenfield wrote, "change 'Heraclitus' to 'The Poet.'" (See page 117 of Greenfield, if you'd like to check.)

Whatever its origin, the passage found its way into circulation. President Reagan used it in a 1982 speech, though his speechwriter hedged by attributing it to Eisenhower's quotation of Tocqueville. Two years later, Reagan declared that Tocqueville "is said to have observed that 'America is great because America is good.'" Thereafter, his speechwriters grew less careful, and several subsequent Reagan addresses quoted from the passage without any qualifications. At this point, it started showing up with greater frequency in political rhetoric.

In 1987, Rep. William Dannemeyer quoted the passage's final line, adding that "America ceased to be good in 1971, when America's promise to pay ceased to be good." He was referring to President Nixon's decision to close the gold window. Apparently, Dannemeyer disapproved.

The day after President Clinton's inauguration, Sen. Jesse Helms performed an ecumenical paraphrase on the line about churches: "As the remarkable French statesman Alexis de Tocqueville noted in the 1850s, the source of American virtue . . . will always be found in the churches and synagogues of America."

In 1994, Bill Clinton tapped the passage to temper his "No, no, no, no, no, no, no, no, no" speech in Boston. "I believe fundamentally in the common sense and the essential core goodness of the American people. Don't forget that Alexis de Tocqueville said a long time ago that America is great because America is good; and if America ever ceases to be good, she will no longer be great."

And now, synthetic Tocqueville is appearing in the 1996 campaign. Pat Buchanan used the "America is great" line in the speech announcing his candidacy, and Phil Gramm invoked the flaming pulpits in his May address to Jerry Falwell's Liberty University.

It's a shame that politicians are using a knockoff product when the real thing is so fine. *Democracy in America* offers profound analyses of the roles of religion, morality, and voluntary action, though its insights are subtler than the purple prose of the counterfeit.

Why does *faux* Tocqueville thrive? It took only a modest effort to expose the quotation as a phony, so how could it have circulated so widely for so long? We could make a nasty crack about politicians who cannot tell Alexis de Tocqueville from Maurice Chevalier, but that would be irrelevant since they seldom write their own material anyway. The lyrics of politics come from staffers, whose tight deadlines often keep them from checking original sources. When they need a quotation (or a statistic or an anecdote), they lift it from a speech or an article by somebody else. That somebody probably got it from another piece, whose author got it from . . . you get the picture. Bad information tends to linger and spread.

Here is a personal brush. In 1992, I served on the staff of the Republican platform committee. We came across the "America is great" line in an old Reagan speech. Though we could not verify it, we still wanted to use it in the platform, so we attributed it to "an old adage."

Of course, after decades of repetition, it has in fact become an old adage. It just isn't Tocqueville's. ♦

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Movies

Hollywood's Gory Days

By John Podhoretz

In Edison, N.J., a man named Rick Sullivan has been producing a newsletter called the *Gore Gazette* for more than a decade. The *Gazette* is a typed and Xeroxed eight-page sheet devoted exclusively to ultraviolent movies—the more repulsively, distressingly, sickeningly violent the better, in Sullivan's view. "Gore" is a bizarre, 30-year-old subspecies of the horror film, comprising those movies that dare an audience to sit through them without getting sigopfutuck. (Sullivan's highest praise is to call a movie a "chunkblower.")

Before the words "politically incorrect" entered the American vocabulary, Sullivan was their personification. Gleefully homophobic, racist, and anti-leftist, equally disgusted by Edwin Meese and the religious right, the *Gore Gazette* has long been on the periphery of the periphery, a truly underground rag.

When Sullivan and other gorehounds—like Michael Weldon, publisher of something called *Psychotronic*, and Joe Kane, the self-dubbed Phantom of the Movies—made a fetish out of "gore," they were paying tribute to a form of moviemaking no rational person could enjoy. That was the attraction. Gore movies were typically made for very little money and intended for venues like Southern drive-ins and inner-city grindhouses—those one-time theatrical palaces on New York's 42nd Street or in Chicago's Loop. These movies bore titles like *Blood Feast* and *The Gore-Gore Girls* and *The Wizard of Gore*, and featured disgusting, though unconvincing, depictions of evisceration—an actress would sit, very still, while an actor trying to look evil pulled animal intestines out of a clearly fake second stomach. But with the end of the drive-ins and grindhouses, gore is now (like pornography) exclusively the province of the video market, which ought to have made it more than ever an underground, subcultural pleasure.

Ah, but these are hard days for subcultures. Subcultures are, after all, populated by alienated souls who are doing everything they can to outrage and mock conventional values. But what can the most alienated soul do when the world of convention is now dedicated to seeking out the latest, the newest, the hippest in alienation and turning it into a fashion appropriate for a Paris runway and a Soho boutique?

What, in other words, is a Rick Sullivan to do when Hollywood starts spending $30, $40, $50 million on movies that are really only suitable for discussion in the *Gore Gazette*?

In the past six weeks, three Grade-A Hollywood movies dealing with serial killers have taken mainstream cinematic violence to a new level. Just as *Showgirls* was a $40 million work of X-rated softcore pornography, so *Seven*, *Strange Days*, and *Copycat* bring the world of the gore movie to the family multiplex.

The difference: At least the Motion Picture Association of America had the good taste to warn people that *Showgirls* was deeply offensive by giving it an NC-17 rating. *Strange Days*, *Seven*, and *Copycat* are all rated R. You could take your kids to see them. For God's sake, don't.

In *Strange Days*, a homicidal rapist with a virtual-reality gizmo forces his victims to watch their own rape and murder as though they were looking through his eyes and feeling his emotions and sensations. In *Seven*, a serial killer who fancies himself the instrument of God imprisons a one-time child molester for an entire year in a bed where he is alternately drugged and tortured but cannot cry out because he bit off his own tongue during one of the torture sessions. (And this is only one of the seven deaths the movie's title promises.) In *Copycat*, two different serial killers on two separate occasions hang Sigourney Weaver above a toilet in a ladies' room with steel cable and threaten to kill her slowly with a variety of medical devices while she struggles to keep her outstretched feet on the porcelain below.

What explains this confluence—three different serial-killer movies all coming out in the same month, all stuffed with the most gruesome and grotesque images of violence, torture, mutilation, and carnage? Partly, it's the way Hollywood works: Three years ago, *The Silence of the Lambs* won the Academy Award over *Beauty and the Beast*, made $200 million at the American box office, and turned Anthony Hopkins's Oscar-winning depiction of a cannibalistic serial killer into a 90s cultural icon second only to Forrest Gump. The success of *Silence of the Lambs* is only now being *Copycat*ted.

But the truth is that, like *The Silence of the Lambs*, the new spate of serial-killer movies is just the big-budget apotheosis of the zero-budget gorefests that set Rick Sullivan's New Jersey heart afire. Wonderfully well-acted, brilliantly photographed, these movies have been made with the latest Hollywood techniques, all the special-effects bells and whistles that a huge bud-

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get affords. But these are not deployed in the service of cutesy tricks like Forrest Gump shaking hands with President Kennedy, or even gross-out moments like the alien in *Alien* bursting through a guy's stomach. No, the special effects here are used to create realistic images of torture and degradation. In one key scene in *Seven*, two cops discuss the serial killer's M.O. while the naked corpse of an obese man lies beside them on a coroner's table. The bloated corpse is a remarkable accomplishment in puppetry, to be sure, so believable as to be nearly unbearable to look at. Such a scene might have been attempted in a cheapo gore movie, but it would have been impossible to suspend your disbelief as the corpse took a quick breath every now and then. By contrast, *Seven* is only slightly less disgusting than an actual trip to a city morgue.

Evil trumps good: Cop Morgan Freeman can't beat the bad guys in Seven

Seven is the fall's biggest hit, and understandably so: At a time when so few movies are memorable, *Seven* sticks with you for days. But this story of a moralistic murderer who slaughters one transgressor for each of the seven deadly sins is profoundly troubling. It took a lot of imagination to come up with the various murders we see on display here. And these were never actually committed; they exist in the minds of writer Andrew Kevin Walker and director David Fincher. So when these two creative types met to discuss them, and after great labor came up with the bit where the guy gets tied to the bed for a year, or the lady gets her head cut off and delivered to her husband by a courier service, did they congratulate each other on a hard day's work well done? Did they give each other a high five? Or were they already solemnly telling each other that the violence needed to be specific and graphic because they were so concerned about the problem of evil in the modern world?

In this alternate universe populated by serial killers who seem less psychopathic than playful, the killers win and the cops lose. The intellectual, physical, and technical brilliance of the killers in these movies is a matter of wonder: "He's very smart," says policewoman Holly Hunter in *Copycat*, "he's way ahead of us, and he's leading us around by the nose." (This line of dialogue appears, in one form or another, in every one of these movies.) The killers escape detection and, if captured, can escape police or prison custody seemingly at will. They are masters at the arts of breaking and entering, computer programming, medicine, and wiretapping.

They are so able, in fact, that they lead the cops to question the very power of good. The protagonist of *Seven*, played by Brad Pitt, turns out to be merely a pawn in the serial killer's game; when he puts a bullet through the killer's head, he is merely falling for the killer's gambit by committing the sin of "wrath."

The pretense to seriousness may be the most obscene and objectionable thing about these movies. *Seven* cloaks its fascination with torture in a character study of a pessimistic cop (Morgan Freeman) whose dark view of human nature is confirmed by his experience with the serial killer. *Strange Days* cloaks its literally pornographic premise—a machine that allows its wearer to experience the emotions of another—in a radical-chic plot about a race riot and an evil Los Angeles cop.

Rick Sullivan isn't the only person whose culture is being pulled out from under him by the Hollywoodization of the gore movie. After seeing only one or perhaps all three of these serial-killer movies, you might experience a sentiment similar to my companion's as we exited *Seven*: "I never want to see another movie ever again." This sort of fare is what seems to be shrinking the ranks of American moviegoers. People go to the trouble of hiring a sitter, driving to the multiplex, and laying out $14 a couple because they're looking to have a little fun. After watching Sigourney Weaver hanging over a toilet bowl, many of them might just decide to stay home the next week, or linger a little longer at the restaurant, or take a walk.

Seven may be a hit, but then the Greek general Pyrrhus also had a hit once, a battle of which he famously said, "Another victory like that and we're done for." ♦

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"Powell enthusiasts among Bush alumni include Margaret Tutwiler, Robert Mosbacher, Mary Matalin, Marlin Fitzwater and Bob Teeter, the polltaker who just circulated a how-it-could-be-done memo."

Newsweek, November 6, 1995

Parody

Robert Teeter, Chairman

OCTOBER 31, 1995

MEMORANDUM FOR GENERAL POWELL
FROM: BOB TEETER
RE: PACIFYING THE RIGHT WING

First let me state how honored all of us from the 1992 Bush team are to be at your side. This is a team of winners. Can we get the old magic working again? I say: Yes. All we need are guts, imagination, and $9.7 million in consulting fees.

Per your request, here are my current thoughts on our gameplan for:

CONSERVATIVE OUTREACH

I know your feelings about this, but it has to be done. There is simply no way to win without mollifying those people you have rightly dubbed "Neanderthals." Over the years I have met several conservatives. I once entertained two of them in my home. Please trust me on this matter.

We have already made headway. Bill Bennett is practically on Colin valium. But further progress depends on our ability to talk conservative. On abortion, for example, you have said you "believe in a woman's right to choose." This mainstream language offends right-to-lifers. Try it with a "right-to-life" twist: "I believe in a woman's right to choose to slaughter unborn innocent human life." This will let Robertson, Reed, et al. know you understand the moral complexity of the issue.

Your early self-description as a "Rockefeller Republican" continues to give us problems. We must make it clear that you meant John D., Sr., not Nelson. We'll script some favorable remarks for you about Big Business and price-fixing so the point gets hammered home.

Similarly, you'll notice that in the attached speech draft we've repeated your characterization of the Contract With America as "a little too harsh, a little too unkind." But we've added: "And there's nothing wrong with America today that a little too much harshness can't fix." We must be careful where we use this language. But I can guarantee a standing ovation for your appearance at the American Conservative Union.

We're also working on some red-meat issues to please the Right. As you know, Opposition Research has come up with some promising leads for the fall campaign against Clinton. As governor, he paroled a number of felons who may commit further horrifying crimes, "if the price is right." But I've warned our guys: No parolees of color! They are sensitive to your feelings in this area -- and we will not compromise your principles just to please Rush Limbaugh, David Duke, and other conservatives.

Finally, we simply will not get anywhere with the conservatives until we get their elder statesmen to sign on. As you know, I've been in intensive negotiations with Jerry Ford....

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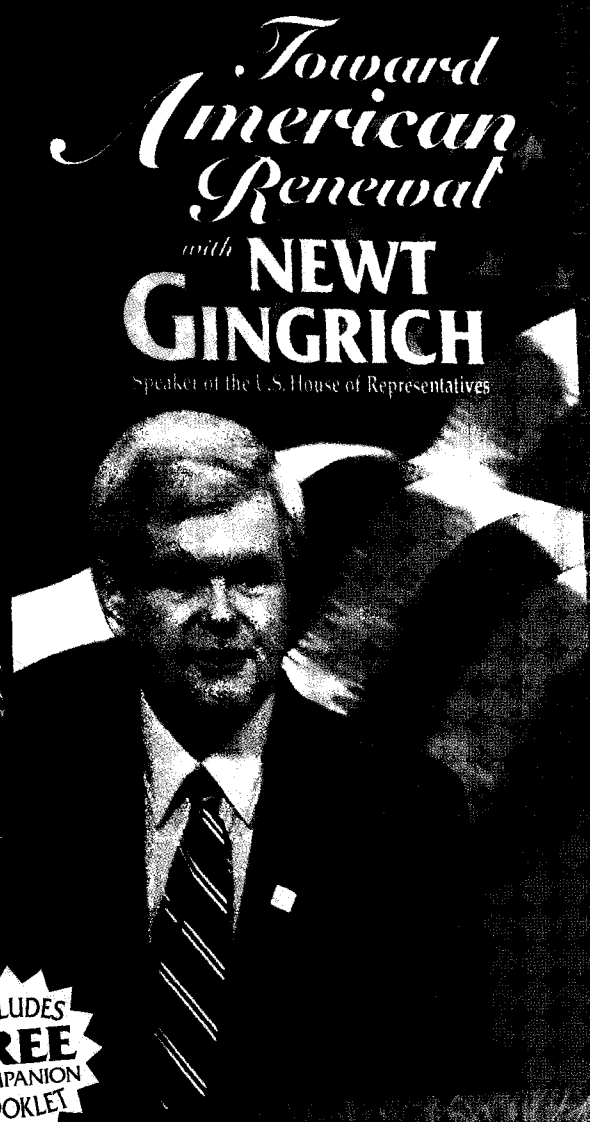
Renew the American Spirit with Newt!



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I helped make this film because I wanted you to be able to look at yourself and say, "You know, it's a great family I belong to, being an American, and I want to do my share."

—Newt Gingrich

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Monopolies Win, You Lose.

People are speaking out against the telecommunications bills passed this past summer by the Senate and the House.

People who are concerned about higher prices, less competition, and fewer voices being heard. People outside the telecommunications industry.

People who favor deregulation -- but believe we're missing an historic opportunity to do it right. Here's a sampling:

USA TODAY "Monopolies win, you lose."

The Boston Globe "...consumers...were short-changed in the legislative process."

The Sacramento Bee "...the bill leaves the Baby Bells...with too much power to choke off competition and raise rates to local customers in order to subsidize their ventures into the long-distance field... this bill appears to tolerate levels of concentration that could effectively drive out any diversity in opinion or information in certain communities."

The New York Times "... it risks putting local phone companies in a position to drive rivals out of business ...it could also end up concentrating control of the main media outlets -- newspaper, TV and radio -- in too few hands... In rural areas, under this bill, a powerful media magnate could buy up *every* source of news, including the local phone company."

ST. LOUIS POST-DISPATCH "Prices would rise... [It] goes much too far."

The Oregonian "...a single owner could control all the media outlets and communications links in a given market -- a scary monopoly."

THE DENVER POST "If the current bill becomes law, phone prices may rise and consumers will have fewer -- not more -- choices."

WORCESTER TELEGRAM & GAZETTE "...the legislation would extend the monopolistic control of the seven Regional Bell Operating Companies...by permitting them to enter the long-distance marketplace *before* they are forced to face local telephone service competition from long-distance carriers or cable companies."

The Philadelphia Inquirer "Slow down in deregulating the info highway, or the public will get run over."

BusinessWeek "If Congress really wants a free phone market, with the competition and lower prices that will come with it, it shouldn't be quite so generous to those local monopolists, the Baby Bells."

THE TENNESSEAN "...the problem with the bill is that it removes most telephone and cable rate restrictions without first assuring that competition is in place."

The Seattle Times "...the bill would intensify the communications industry's instinct to monopolize markets and raise prices."

the Charleston Gazette The State Newspaper "...the bill trashes long-time rules that have restricted concentration of media ownership... Deregulation and 'reform' have increasingly become code words for freeing huge corporations from the government oversight that prevents them from gouging the public and developing stifling monopolies."

Chicago Business Crain's "...the telecommunications bill winding its way through Congress would maintain local phone service monopolies in Chicago, and most of the rest of the country..."

Chicago Sun-Times "Until the public is convinced that its interests are being served, special interest legislation can well wait on hold."

Detroit Free Press "This bill would tilt the field even further in favor of existing cable TV and phone companies. In the end, the trick would be on consumers."

The Competitive Long Distance Coalition

CompTel AT&T LDDS WORLDCOM MCI Sprint frd ACTA

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